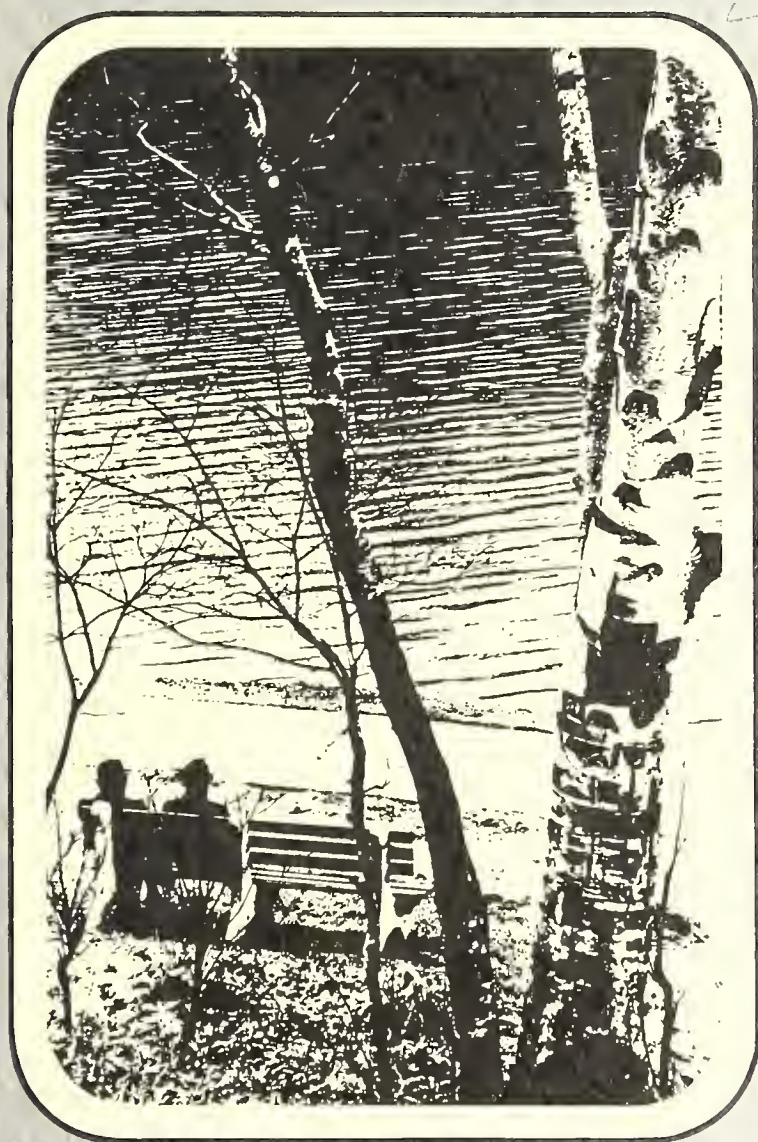


Q.N. 1135

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No. 21

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# aspects

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of assessment in Ontario

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*Aspects*, as the vehicle for communication and dissemination of information throughout the Assessment Division, in this issue emphasizes the more pressing issues of the day. Two articles concentrate on property tax reform. First, we have the views of Willis Blair, Chairman of the Commission on Property Tax Reform in Ontario, and second, a look at the potential effects of tax reform on the municipal tax base by Mr. R. J. Rooks, Treasurer, City of Burlington. Assessors at this time, are preparing to defend market value assessments in court and in view of this, we feature an article on an assessor's viewpoint of courts and a study of the statutory powers and procedures which govern tribunals.

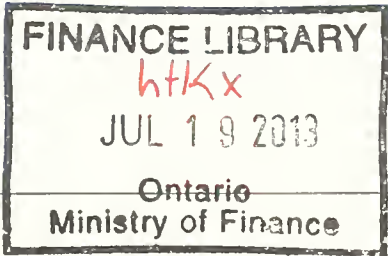
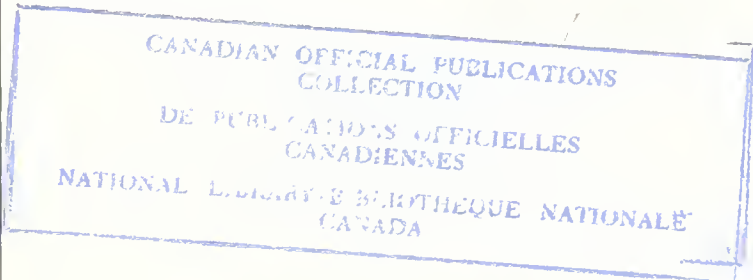
This issue introduces two new features which we hope will be of interest to you. In place of our regular interview with Mr. Gillis, we have a discussion on the role of management in the Assessment Division by Mr. Gillis and three Commissioners. In recent months, the Standards Branch has made significant changes in its method of distributing information about assessment appeals to field offices. These changes are outlined in this issue and an update of all recent assessment cases which have come to our attention, replaces our regular case study. Our real estate section includes an article on various home buying and rental assistance programs in Ontario and another look at the Land Speculation Tax.

Plans for *Aspects* #22 include articles on the Blair Commission's recommendations, condominiums and a summary of the Appeals Training Course.

We take this opportunity, to offer our sincere thanks to Barbara Pleva, former Associate Editor, for her efforts in making *Aspects* a success. Barbara has moved on to a position in the Retail Sales Tax Branch of this Ministry. At the same time, we welcome Catherine Selby who has replaced Barbara as Associate Editor. □

**Contents**                      no. 21, April, 1977

- Assessment administration
  - Managing the Assessment Division: goals, practice and the future, ..... 2
  - Toronto — the challenge of assessing a changing city ..... 20
- Tax reform
  - On the reform of property taxation in Ontario
    - W. L. Blair ..... 26
  - Tax reform in Ontario
    - R. J. Rooks ..... 29
- Legal study
  - What's new in Case Law ..... 59
- Legislation
  - A study of the Statutory Powers Procedure Act, 1971
    - R. E. Michor ..... 47
  - Regulation made under The Assessment Review Court Act, 1972 ..... 55
- Data Base ..... 12
- Special topic
  - Solar energy: inexhaustible, but economically viable?
    - P. A. D'Souza ..... 15
  - A commentary on The Ontario Land Speculation Tax Act
    - D. Baxter and S. W. Hamilton ..... 33
  - Housing alternatives ..... 43
- Personal glimpse
  - Courts — an assessor's viewpoint
    - D. A. Rosier ..... 56
- Communications
  - Advisory Committee ..... ISC
  - Regional Delegates ..... IBC
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## Managing the Assessment Division: goals, practice and the future

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It was suggested by Aspects' Advisory Committee that we feature a discussion on management within the Assessment Division. In response to this and in view of the crucial issues such as the implementation of neighbourhood assessment and the reassessment program which are taking place within the Assessment Division, we have asked a series of questions on management to Mr. Gillis and three commissioners. The three commissioners are Mr. V. M. Hewson, Assessment Commissioner, Lindsay Region; Mr. M. W. Parfeniuk, Assessment Commissioner, Brant-Haldimand and Norfolk Region and Mr. T. A. Wilkes, Assessment Commissioner, St. Catharines Region. Since both Mr. Gillis and the commissioners were asked the same questions, you may note some overlap in answers. [Ed.]

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**Aspects:** What does management mean to you? How would you define it?

**Mr. Parfeniuk:** In my view the term management means the combination of planning, co-ordinating and control of human and physical resources to achieve goal objectives of the organization. This is purely an academic definition but in real terms it is a process of the manager being human and directing and controlling others to a common purpose or goal. Therefore, in addition to planning, co-ordinating, etc. we must have *communication* and this is where I believe the success or failure of any management begins.

**Mr. Hewson:** According to the American Management Association, "Management is guiding human and physical resources into dynamic organization units which attain their objectives to the satisfaction of those served and with a high degree of morale and sense of attainment on the part of those rendering the service". This concept of the manager as one who guides rather than one who dictates is by far the most productive especially in an organization such as ours, where the majority of employees must work largely without direct supervision.

**Mr. Gillis:** I think management is really two things: one is a physical organization that allows managers to manage people and the other is the philosophy of how they go about doing it. Some people are good managers, others aren't because of their personalities, particular traits or biases. Essentially, I think in order to manage, you have to have an organization which allows you to manage and the ability to communicate.

**Aspects:** What do you consider to be your principal responsibilities and areas of concern? Do you see your role

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Mr. Gillis: . . . management is really two things: physical organization that allows managers to manage people and the other is the philosophy of how they go about it. . .

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primarily as an administrator, technician, personnel supervisor, policy maker, or an amalgamation of all these functions?

**Mr. Parfeniuk:** The duties and responsibilities of the Assessment Commissioner are extremely varied. As our organization is structured I see the commissioner's responsibilities as an amalgam of an administrator, a policy maker and a technical expert, in that order. Administration and policy making are two areas which are most time consuming for the commissioner. These functions require a thorough understanding of the goals and objectives of the organization, evaluation of the resources at hand and making policy decisions on how these goals and objectives are to be achieved.

The function of the Assessment Commissioner also requires some technical expertise since he has the ultimate responsibility for the total assessment operation. He must, therefore, have a good understanding of valuation and real estate economics; he must have a basic understanding of the data processing system, S.A.S. and general idea of the rules and regulations contained in the Manual of Administration.

One of the major pitfalls experienced by many commissioners is getting directly involved with personnel supervision since this function is the direct responsibility of the manager and senior assessors. Of course he must ensure that the right personnel are hired, deal with major discipline problems in conjunction with the manager and be the person who is directly responsible for any staff dismissals. Only in these circumstances should the commissioner be involved in personnel supervision — to do otherwise would tend to undermine the responsibility of the manager and senior assessor.

**Mr. Wilkes:** One function that has been omitted here and is probably primary is the responsibility for public relations within the region. It would be unrealistic to believe that anyone has the capacity to be fully informed on all the above-mentioned functions. We are very fortunate to have available within our Ministry, persons from whom we can obtain expert advice on any one of these functions. In rating the given functions by priority, I would place administrator first and policy maker last with technician and personnel supervisor in between. Although, at times, we are asked for our opinions concerning policy, I believe that our true position is one of administering policy decisions, not making them, and although I believe that an Assessment Commissioner should be technically sound enough to determine if valuation and procedural techniques are being correctly applied in the region he still must rely on the ability of the managers in these areas.

**Aspects:** Have your own ideas about effective management changed at all since you became Assessment Commissioner?

**Mr. Wilkes:** Yes, my thinking was strongly "Y" oriented at first and although I certainly wish to proceed in the same direction I have had to temper my thinking as experience has taught me that many employees, due to the lack of sufficient training and direction, are not ready to assume full responsibility.

**Mr. Parfeniuk:** Since my appointment as Assessment Commissioner I personally do not believe that my ideas about management have changed. In fact I have been convinced that my basic beliefs on effective management are workable. You see, I am of the basic belief that if staff are given the opportunity to demonstrate ability and responsibility they will take upon themselves to fulfill the responsibility given to them. I am most fortunate to have a very fine staff of mature, responsible people and of course this makes effective management as I had envisaged management much easier.

**Mr. Hewson:** Oh yes, my ideas about effective management most certainly have changed since I became an Assessment Commissioner. Practical experience and continuing study coupled with management's general response to a better educated and less obsequious work force, have considerably altered my concepts, attitude and technique over the years.

**Aspects:** Mr. Gillis, have your own ideas about effective management changed since you became Executive Director?

**Mr. Gillis:** Yes, I would say that they have changed perhaps fairly substantially. I think that effective management means that a person have the qualities for leadership and that he can convince the working force to react to his wishes on its own volition. I think he should be reasonably benevolent, he should be able to sort out the do's and don'ts, he should be able to analyze his work force and come to his own conclusion as to which is the best way to direct his staff and give incentives so that they do a good job. On the other hand, he should have the sort of organization that allows him to operate this way. However, in the past, I don't think that we had a functional organization which allowed the most effective way of organizing the Assessment Division. It probably allowed us to do certain mechanical things in the early days like measuring build-

ings. Certainly, it didn't give us the quality of work that we should have obtained. Essentially it didn't because there was no overall supervision of what was happening in a total municipality or a total neighbourhood or ward. We did not know whether the people who assessed houses did a good job or whether the people who assessed stores didn't do a good job or vice versa. This fragmentation approach which we had also meant that some people were doing land, others were doing buildings. No one ever got around to looking at the sum of those figures to see whether or not they really represented the value that should have been developed for the right property. And as a result we got into trouble because of this. It seems to me, therefore, that the most effective way of making sure that the values are well equalized would be to have one person doing them all.

From the employees point of view, people had the idea that the assessors who did stores were better quality people than those who did houses. The people who did farms were at the bottom of the totem pole. Status classifications were created by the various working groups in the office. This created difficulties for the Division. Most definitely, my view has changed substantially in how I thought the Assessment Division could be managed.

**Aspects:** What kind of working relationship do you have with your managers?

**Mr. Hewson:** Management in our office is a highly participative operation. We are making increasing use of modern "problem-solving" techniques at the management level and I am encouraged by the progress we are making. Old attitudes and habits are hard to change, however, and we recognize that we do not always demonstrate by our action the role to which we aspire.

We have been organized along geographical lines since the beginning of 1974, each assessor being responsible for a specific portion of the region. Each manager supervises about ten (10) assessors and bears complete responsibility for the communication of the organization's goals, objectives and techniques.

**Mr. Wilkes:** I look at management as a team and whenever possible decisions are made after thorough discussion of the problem and hopefully with the management team reaching a unanimous decision. Only in the cases where we lack a unanimous decision or the decision arrived at is not within divisional policies will I override or direct the solution back for reconsideration. I attempt to lead the team to a sound conclusion but at the same time realize that if a decision is not supported by the majority of managers it will not be properly implemented.

The managers are fully responsible for the direction of their staff. I believe strongly that there must be a correct flow of supervisory responsibility in order that the staff know who they answer to and the manager is fully aware of what each staff member is doing at all times.

**Aspects:** How would the implementation of a neighbourhood organization affect your job? What current problems would be alleviated?

**Mr. Parfeniuk:** After completion of the reassessment program, neighbourhood assessment was implemented in

September 1976, following the basic format as outlined in Aspects #19, the Durham Study. The neighbourhood organization is without a doubt a resounding success. Personnel appear to be enjoying their work much better, they are learning the different methods of valuation on all types of property and above all they have a feeling of *responsibility* for *their* area. It gives them a sense of accomplishment, a sense of belonging and it gives management the opportunity to manage more effectively since it provides for better control of work programs and other priorities.

**Mr. Hewson:** Implementation of the new "Neighbourhood Assessment" concept would have the immediate benefit of equalizing the workload among our assessors. It would facilitate the implementation of newer, more direct valuation techniques in most areas and should result in less paperwork than is presently required in the valuation process. One would also anticipate the opportunity for assessors to exercise greater control of and responsibility for the assessment roll's contents. In short, the assessor could be more highly motivated, independent and effective than is possible under our present organization.

**Mr. Wilkes:** Some other problems which in my view would be alleviated are:

- inconsistency in valuation
- morale problems
- public relations problems particularly liaison with municipalities
- errors in records in the valuation file, for example, by people who lack knowledge of certain properties and municipalities.

**Mr. Gillis:** I want to play an important part in the function of moving from our existing system to neighbourhood assessment. I want to be sure that the neighbourhoods are set up rationally and wisely and that the staff is distributed among the neighbourhoods effectively. I want the neighbourhood assessor to be put in the position where he has all the information on the policies and practices of the Division, as well as knowledge of valuation techniques so that he can function efficiently. I intend to personally mastermind that move. I do not intend to have any interference nor do I intend to have its implementation delayed for any reason. I intend that it be implemented at a reasonable pace which does not upset anything in the field, but nevertheless, effectively moves us into neighbourhood assessment in the next few months.

The current problems which would be alleviated are those which stem from the fragmented approach under which we operate. The implementation of neighbourhood assessment will overcome the morale problems caused by employees only performing one particular function which does not satisfy all their ambitions. In addition it would lead to more consistent and uniform valuations of all properties in a neighbourhood.

**Aspects:** What new problems would arise?

**Mr. Hewson:** Among the new problems which could arise with the full implementation of neighbourhood assessment might be duplication of research and slight loss of



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Mr. Hewson: . . . neighbourhood assessment has the immediate benefit of equalizing workload. . . facilitating more direct valuation techniques. . . improving morale. . .

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consistency. These problems, however, could be overcome with effective co-ordination. A more perplexing problem would be the need for training in the use of statistical methods for valuation to say nothing of the difficulty always encountered when introducing new concepts to those few who seem to find any kind of change offensive.

**Mr. Wilkes:** I believe the lack of training with present staff will be the biggest problem to overcome and there are a number of the staff members who, not having self discipline and having had very little training in that direction may find it very difficult to accept the responsibilities of neighbourhood assessment.

Adjustment of geographic areas to allow for growth and co-ordination of information when dealing with tax agents would be some other problems which may arise.

**Mr. Parfeniuk:** Of course neighbourhood assessment will only work to maximum efficiency if every assessor is totally competent to perform his duties as an assessor. This is not the situation in the province and will undoubtedly lead to some new problems in the short term. To illustrate, we have in the province many new, inexperienced personnel as well as some who while being in assessment for some time have not been exposed to market value assessment to the extent that would make them proficient. But hopefully with exposure and adequate training programs this should be resolved to a great degree very quickly. Nevertheless the turnover of personnel is always apparent and will continue to provide problems in areas particularly where high rates of turnover are experienced. To circumvent this problem each office should be organized in such a way as to provide for a "floater" staff of say 10%. The areas would be enlarged for those having been assigned neighbourhoods and the "floaters" would assist and be trained at the same time. In this way staff turnover would not be as serious a problem as it would be if every assessor were assigned a neighbourhood.

Irrespective of the competence of the assessors in this province, I believe new problems will arise because of the plan to have assessors perform more clerical functions. Appraisal of real property at market value is very complex and requires a very high degree of technical training. I do not think we have achieved the level of excellence required to perform this function totally.

Added to this, to be also knowledgeable in a very complex data input system required by S.A.S. will undoubtedly retard the proficiency level of the average assessor for some time as well as add problems to the E.D.P. system which were prevalent when S.A.S. was first implemented. The ideal situation would be to incorporate a training system in the appraisal of property at market value as quickly as possible so that this function can be performed with the degree

of competence required. Once this has been achieved and we are able to evaluate the workload we can then phase in the S.A.S. training program.

**Mr. Gillis:** New problems are inevitable. One of the problems will be coordination and supervision. One of the problems in the Assessment Division now is that not enough of the information which is given out at the Director or Commissioner levels is passed down to the staff. Unless we can overcome that problem there will be a serious deficiency in neighbourhood assessment because its most important that members of the staff have more information than they have had before.

**Aspects:** What other changes would you like to see in the structure and organization of the Assessment Division?

**Mr. Wilkes:** I believe our structure is basically good and geographics will cure what I feel is one of our most basic weaknesses — the lack of knowledgeable service to the public and the municipalities.

**Mr. Parfeniuk:** In addition to the reorganization of regional offices into neighbourhood assessment I would like to see the Head Office Valuation Section expanded to include the most highly skilled personnel in the fields requiring such expertise, i.e. shopping centres, office buildings and large industrial plants. Those already there are very competent and are very co-operative but the demands on these few individuals are reducing their effectiveness. I would think a better solution would be to have such personnel part of an area administration. In this way, as neighbourhood assessment, the area of responsibility would be geographic and be more in line with the general organizational philosophy of the Division.

**Aspects:** How much responsibility is your staff given? Ideally would you like to give them more or less?

**Mr. Wilkes:** Not enough. Ideally I would like to give them more responsibility in all areas including both valuation and assessment services in line with their position specifications.

**Mr. Hewson:** Until recently, the assessor's responsibility was more or less limited to valuation of property. I believe that we have now reached the point where most assessors are taking a greater interest in the total assessment process as it affects their area of responsibility. We welcome this trend and see it as a maturing of the assessor's role in the

organization whereby both responsibility and accountability can be borne on a more individualized basis.

Aspects: Would neighbourhood assessment aid also in improving management functions within the organization?

Mr. Gillis: It is intended that it will and I hope it will, for the simple reason that our most serious problem at the moment is the fact that we do not get information passed on down to the working level employees. There is a bottleneck, sometimes at the commissioners' level and sometimes at the managers' level which seems to be based on the philosophy that there is some sort of job security if a manager or commissioner knows much more than their employees. The people who operate this way completely overlook the fact that a well informed staff which knows the policies and aims of the Division and responds to them is going to do a much more effective job and in that way create the most job security for that manager. Managers who certainly will never lose their jobs in the Assessment Division are those who are doing the most effective job which entails making sure that information gets passed down to their staff, that their staff is well informed, well trained and motivated to do a good job.

Aspects: Is there a job rotation system in your office for clerical personnel? What are your feelings about this?

Mr. Parfeniuk: Job rotation may be a very worthwhile system because over the long term the workloads are evened out and a better evaluation of staff performances can be made. However, I do not feel it's desirable or necessary if management has done its homework and assigned work in an equitable fashion.

Mr. Hewson: No. I feel that in the clerical series, opportunities to gain a variety of experience through job rotation should be seized by personnel "on the way up" and not be forced on those who are perfectly satisfied with their present role. I would feel quite differently, however, if our clerical staff were not already organized along geographical lines and responsible for all clerical support for a specific area.

Mr. Wilkes: The clerical staff in assessment services is now aligned geographically and, therefore, exposed to a complete cross-section of all assessment services activities. At the present time, however, the only apparent weakness in this system which occurs in valuation and assessment services is the lack of training for some staff members in some areas.

Aspects: What are your views on flexible working hours?

Mr. Parfeniuk: Flexible hours are an additional burden on management particularly in the assessment field. Taxpayers are not too kind when it comes to discussing their assessment/taxes. They want action *now* and if it is not forthcoming we run into problems. Neighbourhood assessment and flexible hours I cannot see working unless the hours are clearly defined.

Mr. Wilkes: I am definitely in favour of flexible working

hours for field staff which would allow them to adjust their working hours in order to collect field data when ratepayers are at home. I see little or no apparent reason, in this region, for office staff working flexible hours and, in fact, with so many positions dependent on information from other positions I feel that flexible hours interfere with the efficient operation of in office clerical procedures.

Mr. Gillis: I think that flexible working hours should work very well in an organization like the Assessment Division where much of the work is outdoors visiting properties, homes, stores and factories. The assessor must adjust his time to suit the hours in the day when it is most likely that he will find a ready reception from the home owner or the factory owner. For example, an assessor who visits homes or factories at 8:00 a.m. would most certainly be rebuffed since the factories wouldn't be opened or it would be an inconvenient time to inspect a home. From that point of view, therefore, it would appear to me that his most effective working hours would be in the middle of the day. At that time, however, some people may not be home or it may be impractical to get into a place of business. It would then be necessary for the assessor to return to these places in the evening. Therefore, in my view a combination of these kinds of flexible hours is more suitable to the public and certainly would be more suitable to the staff.

Aspects: What do you think of the current Ministry system of performance appraisal? What are your views on staff self-evaluation as a method of performance appraisal?

Mr. Hewson: I have discussed the current system of performance appraisal with a number of supervisors and all seem to share my distaste for it, while at the same time, agreeing that employee performance appraisal is necessary and must be continued. I know this subject has been exhaustively researched by our Personnel Branch, yet I feel a better and more objective method needs to be developed. Perhaps the form should be simplified to present only "satisfactory" or "unsatisfactory" scores with more room for comments.

Self-evaluation might be useful or perhaps there should be space for comments of both supervisor and employee. Possibly, continued use of the existing system might cause both supervisors and employees to become more objective and less intimidated by the procedure. As one manager has pointed out, for performance appraisal to be beneficial, "There must be an established standard and it must be measurable".

Mr. Wilkes: I am in favour of Employee Performance Appraisals. However, I believe that the present system lacks depth and definition, with the one saving grace being that it does force management to meet with staff and discuss their strengths and weaknesses.

If the employees were allowed to make self-appraisals on the same format as used by management, the employees would then be in a better position to discuss the appraisal during the Employee Performance Appraisal interview. I also feel that the self-appraisal would, in most cases, be far more critical than the management appraisal.

Mr. Parfeniuk: The current system is quite adequate but it is felt that it would be helpful if the Personnel Branch



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scrutinized these from time to time and provide some feedback of their assessment of the completed appraisal report.

**Aspects:** Because of the pressures associated with the reassessment program it has often been difficult to maintain a high level of morale in regional offices. How have you coped with this problem?

**Mr. Parfeniuk:** Staff morale is a direct reflection on the attitude of management toward certain work routines and programs. If the program is clearly stated as to its objectives, morale problems are minimized because staff can see the benefit derived from the labour. The pressures associated with the reassessment itself did not have a detrimental effect on morale. It was the other programs that were done on a mass scale during which morale was at times difficult to control. There were two major programs that could be put into the category of being destructive on morale — the description file clean up and the valuation file. In the first instance the program was not too involved, it was completed rather quickly and the need for such a program was very evident. However, the valuation file was a very slow process with many data elements, many of which were totally unnecessary because they had little or no effect on property values — problems with morale were very apparent. Also the direction given as to its objects were not clearly defined and because of this the staff took a very indifferent attitude. Their primary goal of reassessment at market value was in jeopardy and it did not sit too well with staff or some management.

To cope with morale problems one has to be very positive, objective and communicative. Discuss how to get the most out of doing a rather mundane job. With particular reference to the valuation file the staff had just completed the inspections, the computation clerks calculated values and so on while the assessor was never made aware of the results. The opportunity first came when completing the OCR sheets — he had the sales, 1972 market value estimates and the physical features of the property — a golden opportunity to put all three together on one sheet and do a mental analysis in the process. For some it worked, for others the results were not so satisfying.

**Mr. Wilkes:** Firstly, I think we should redefine the question. I don't believe that the ordinary staff member has truly received that much pressure during the past few years, but, rather the poor morale has resulted from frustration and confusion as a result of insufficient planning and the failure to see any tangible results for the amount of effort expended. I believe the only positive step taken locally has been the reorganization to the neighbourhood assessor concept, and therefore, an increase in individual responsibility for both maintenance and revaluation programs. I feel that

even with the delays in the return of reassessment, if staff members can be shown the necessity of improving the figures that will finally be returned interest can be stimulated and the work made meaningful.

**Mr. Hewson:** The real morale-builder has been the spirit and determination of most of our staff. True, there have been days when many of us have been crushed by the weight of less than exciting chores but camaraderie among the staff has always been high. Perhaps we have been blessed with fewer than our share of those unfortunate gloomy souls who effectively demoralize all within earshot.

This region's management has learned that effective, positive communication is essential to a high level of morale.

**Aspects:** Communications and effective information flow are recognized problems in most large organizations. What measures have you instituted in your office to cope with this? Are there additional methods you have in mind for the future?

**Mr. Parfeniuk:** Communication is a very vital aspect of management that cannot be overlooked. I believe if one was to make a thorough analysis of a group of offices it would be found that offices where there is effective communication would rate higher in terms of production, morale and general attitude than those which are less open with information flow.

In this office all communication with respect to policies and procedures are distributed to managers. In certain instances all staff are informed by memorandum outlining changes but in situations where there may be some confusion as to intent, a staff meeting of all staff members is convened to explain the policy more fully and to answer questions. Managers are encouraged to hold regular staff meetings to discuss any problems that the staff may have. Again if the problem is serious it is discussed with the commissioner and resolved either by memorandum or general staff meeting.

This policy of communicating seems to work and I see no reason to make any changes in the foreseeable future.

**Mr. Wilkes:** In addition to written communications and periodical staff meetings we have established an annual plan which is distributed to all staff members in order that everyone can be aware of the commitments of each section thus eliminating, to a degree, misunderstandings between sections on work priorities.

There is also the inclusion of a union appointed staff member at regional management meetings. This is a simple form of participative management which allows input from the staff and a flow of general information back to the

staff. A copy of the minutes from all management meetings are posted on the bulletin boards for the staff's perusal.

Aspects: What measures have you, as Executive Director, instituted to cope with the problem of communications and information flow?

Mr. Gillis: We have done a number of things but I am not sure that they have been totally effective. I have attended regional meetings, where I have talked to the staff, made sure that they were informed on certain topics, and encouraged them to ask appropriate questions if they feel they did not get all the information from their managers. The other directors have done the same thing. We've convened directors' meetings, commissioners meetings, and meetings with both commissioners and managers. On the other hand, in order to have an information flow, it is essential to motivate people to allow it to flow. This approach of holding various meetings is not completely effective. Hopefully, with neighbourhood assessment and the training programs which have to be made available, we will ensure that all policies are passed on to all assessors. Assessors will be put in the position where they will be more inquisitive and ask more questions. The managers and commissioners will then become more motivated to let information flow throughout the organization. However, that's only a one-way street, there must be also a mechanism to get an information flow back up from the employees. We must be aware of their feelings and reactions to their particular neighbourhoods in terms of how a neighbourhood is being organized and what factors may have been overlooked. It is essential that we have a two-way flow of information. At the moment we don't have one and we probably don't have a one-way flow as complete as it ought to be.

Aspects: Will neighbourhood assessment introduce this two-way flow?

Mr. Gillis: It depends primarily on education. There is no assurance otherwise unless we set up an elaborate system of writing letters directly to each employee to ensure that he receives information. There also is no assurance that the biases of whoever passes information on does not flavour the content of the information. A very simple message often gets garbled when it goes through three or four levels. Newsletters have been considered. Aspects does aid in distributing information flow but this is not sufficient. It is imperative that we establish a mechanism where information passes down through the organization and also flows back up.

Aspects: What suggestions might you make for improving communications on an overall Division basis?

- Mr. Wilkes: A) Telephone and verbal direction should be confirmed in writing.  
B) A system should be implemented whereby all policy directives be numbered for recording in a similar manner to up-dates in our Internal Procedures Manual. This would facilitate retrieval as well as identify any lost or misplaced directives.  
C) One very identifiable weakness in communications is the failure of the persons responsible for the

direction of various programs to follow up on queries, by one or more regions, with the balance of the regions. For example, if an enquiry concerning EDP procedures is directed to one of the Area Co-ordinators and it is obvious that this is a problem that all regions will encounter, at one time or another, a copy of the *written* reply to the questioning region should be circulated to the balance of the regions.

Mr. Parfeniuk: Improvement in communication is always desirable and from what I have seen great progress has been made in the past few years. For example, we had a problem with the distribution of case law between regional offices. The matter was discussed at a commissioner's meeting and the problem no longer exists. There is, in the Division, a sincere attempt to get the information flowing and that is a step in the right direction.

Mr. Hewson: Communications throughout the Division might be improved if personnel at all management levels could become more aware of and adept in the several types of communication. Developmental training of the sort enjoyed at the 1972 Department of Municipal Affairs Management Briefing should, in my opinion, be arranged annually. Such a program might include the C.S.C. courses in Communication and Transactional Analysis.

Aspects: What are the most important qualities that you are looking for when you interview staff?

Mr. Hewson: When interviewing new staff, we look for a candidate who has by past performance demonstrated the ability to handle the position offered. Having satisfied that basic requirement, we look to those personal characteristics which determine one's ability to work well within the organization, with the public and with other organizations.

Mr. Wilkes: In order of priority we look for

- 1) Maturity — not in years but in stability.
- 2) Intelligence
- 3) Ambition
- 4) Qualifications as they apply to the job — if a person possesses the first three qualities the fourth can be taught, however, the reverse situation does not always hold applicable.

Aspects: Mr. Gillis, what qualities do you expect in persons in managerial positions within the Division?

Mr. Gillis: Persons in managerial positions within the Division should be good leaders, they should be knowledgeable, humane and should have the ability to recognize the problems of their employees. They should realize that an employee's productivity is a result of the leadership and motivation he is given. The most important aspect they should have is humane and reasonable treatment and respect for an employee as an individual and as a worker. They should provide an equal opportunity for the employee to develop and improve himself.

Aspects: How do you describe the job of an assessor when interviewing new staff?



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Mr. Parfeniuk: Staff morale is a direct reflection on the attitude of management. . . To cope with morale problems one has to be very positive, objective and communicative. . .

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**Mr. Parfeniuk:** When interviewing new staff for assessor positions one of the first things the interviewer should realize is that the applicant's knowledge of assessment may be very limited. This is particularly true of university graduates since their course of studies may have been in a totally different field. Therefore, the field of assessment must be fully explained including such matters as philosophy and history of property tax, what assessors do when they appraise property, maintenance of records and the importance of keeping abreast of current market conditions, real property economics and other related subjects.

Once the job is explained there are certain reactions from the interviewee which are evaluated together with the other characteristics which were discussed previously. It is also very important in interviewing an assessor trainee, regardless if he is a university graduate or community college graduate, that the aptitude for the job is evaluated during an interview. In this regard a simple test may be given to an applicant to assist in the evaluation. This approach is used in this office and it is surprising that those considered best suited for the job do very well at the written test as well.

**Mr. Wilkes:** Usually in terms which are heart-felt but which are not fulfilled due to restrictions by management and policy. The position of the assessor is very unique and should be very rewarding. It is an opportunity to work for an employer with tremendous resources and, if the position functioned according to its position specifications, would allow a great deal of self-expression; geographics should certainly be a step in this direction.

**Aspects:** Do you feel that at least on a long-range basis, job expectations of new employees who are university and community college graduates will be realized?

**Mr. Wilkes:** Not if the past performance of management and staff members is an indication; however, being an optimistic person and having the desire to reach that goal I believe that management and staff can, if they desire, work in that direction.

**Mr. Parfeniuk:** In addition, I believe one can achieve anything he wants with the proper attitude, demonstrated ability and desire to progress. There should be no good reason why anyone regardless of his academic background should not find the work as an assessor rewarding and challenging.

**Mr. Hewson:** In our region, we have experienced a very low attrition rate. This would appear to indicate that the job expectations of new employees are being met and that their initial understanding of the position's potential was reasonably accurate.

**Aspects:** What has been the relationship between the more experienced assessors and the CAAT/university graduates? Was there some tension initially? If so, how did you reconcile the two groups?

**Mr. Parfeniuk:** I have not experienced any adverse reaction between CAAT/university graduates in the assessment field and those who possess less education and more experience. On the contrary the relationship has been very cordial with the older, more experienced assessors more than willing to assist the new recruits.

**Mr. Wilkes:** Yes, I believe that some tension has been experienced between the two groups. However, I don't believe it has ever been a serious problem and have found that once the graduate had the maturity to appreciate the experience of the older assessor and, similarly, the older assessor learned to appreciate the energies and ambitions of the younger assessor that the problem has been eliminated.

**Aspects:** Do you offer any work oriented training program to new assessment personnel? If so, please describe it.

**Mr. Wilkes:** Undoubtedly this has been one of the division's greatest weaknesses, we use the excuse that we have no time for training when, in fact, adoption of the opposite view would facilitate work to the point where managers would be allowed to manage rather than do the work.

We are now at the stage, entering geographics, where we realize that we have sadly neglected training processes and will have to make a concentrated effort in the next few months to adequately prepare all staff for the implementation of revaluation.

**Mr. Parfeniuk:** In this office we are very conscious of the benefits of a proper training program. New personnel are given on-the-job training by senior personnel on all phases of assessment. This would include clerical functions, registry office, valuation and maintenance of records. Ideally, although not always possible, a week or two at each function is programmed so that the new employee can appreciate the total impact of the job and can make a quick evaluation whether this is the type of work he wishes to do for a career.

**Mr. Hewson:** It is years since we hired inexperienced assessment personnel. No training program has been necessary.

**Aspects:** How do you think your job and work of your staff will change after the reassessment program is completed?



Mr. Parfeniuk: After reassessment I do not see any lessening of the workload at the regional office level. We will have to continually update our values, do comprehensive analysis of the market, etc. With the ever changing economics of real property, valuation of property becomes more complex, more demanding and therefore, requires more concentrated effort on training and work. We must modify our data banking system to make it more functional and we must design a retrieval system that will not limit the scope of the analysis required in a pure market value system.

The opportunities are there to provide one of the best assessment systems in the world; with careful planning this goal can be achieved.

Mr. Wilkes: Hopefully, we will enter a period of controlled change with thoughtful, deliberate work based upon quality rather than quantity programs.

Mr. Hewson: The return of market value assessment will focus public attention on the Assessment Division. For this reason, there will be greatly increased demands on our time by the public and by various organizations. I do not believe we have yet developed the best method of estimating the market value of all classes of property. There will still be a lot of work to be done, both in the field, and in the office, to maintain our records and to raise the accuracy of our market value estimates to a level consistent with public expectations.

Aspects: Shall we expect any reorganization within the Division after reassessment? Will the Division become more decentralized with more decision-making at the regional office level? More centralized, or remain as it is?

Mr. Gillis: Whether we become more decentralized or less decentralized will depend on the neighbourhood concept itself. If it is found that more decentralization would make the organization better then certainly we would have to consider it. On the other hand, it is unlikely that the neighbourhood concept would result in a reduction of the number of regional or sub-offices, there may well be an increasing number of them. We must consider also the budget constraints and money which is available and weigh these against the relative costs.

Aspects: Do you think more decentralization would help the problem of communication and information flow?

Mr. Gillis: Not necessarily. I think that communicating information depends primarily on the people who are carrying the message. If they are motivated and recognize the benefits of having a well informed staff then there would be no problem in that area. If they do not recognize that benefit and feel it is in their best interest not to pass on information to their staff, then there will be a bottleneck in the organization regardless of the system which is introduced.

Aspects: Imagine you were free to make sweeping changes in your office structure and in the entire organization from relocating your office or creating sub-offices, to

re-writing your staff's job specifications, to changing the assessment cycle, to changing the assessment appeals system, etc. etc. If you could make three sweeping changes what would they be?

Mr. Wilkes: I don't necessarily believe that physical change, as seems to be the type of response the question is seeking, is really the answer to what may be ailing the Assessment Division. Small, well thought out, physical changes over a longer period of time will be more productive and will truly benefit the person who should benefit, the ratepayer.

If I could change anything I would like to change the thinking of a majority of the Assessment Division staff members to have them realize the truly unique position we are in and to realize our one main purpose is to produce an equitable assessed value on every ratepayer's property. I feel very strongly that in too many cases the means have become more important than the results.

Mr. Parfeniuk: Changes which I would like to make in the Assessment Division would be:

1. Create a separate provincial assessment agency or commission. This agency would be for all practical purposes completely independent from governments be it provincial/municipal whose sole function would be the valuation of property. Property valuation is a professional skill that is technically oriented while property taxation is politically oriented. While there is a natural relationship between the two it is very important that the public be sufficiently informed on assessment and valuation and the Assessment Division not be blamed for any inequities in taxation policy. The creation of such an organization would be relatively simple since the machinery is now in place. The offices are established and are staffed with personnel that have achieved a high level of expertise.

2. Doing away with enumeration by regional offices, the preparation of voters lists, etc. This function is very costly in terms of benefits received. Even in the election year much money is spent on enumeration, only to find 25%-40% of the eligible voters exercising their right to vote. We mail out assessment notices to owners and all tenants, again involving millions of dollars of expenditure with no direct benefit. In my opinion this is totally unnecessary.

I would have the eligible voters register to vote. Notice of assessment would be sent to owners and those persons paying business tax only. To determine school support, the owner would direct the school support.

3. Total utilization of the valuation file would be a change of top priority. We have much of the physical data on file. I would have it expanded to include all properties, install terminals in each office and use this data base for valuation of property. It is much more efficient, the analysis would be more complete providing for more accurate results.

Aspects: What do you consider to be your main responsibilities in dealing with the *people* of the organization?

Mr. Gillis: My main responsibility is to provide motivation which encourages people to be more independent in

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Mr. Gillis: My main responsibility is to provide motivation which encourages people to be more independent in their decision making and. . .to take on responsibility he can handle. . .

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their decision-making and which allows each neighbourhood assessor to take on the responsibility that he can handle, ensuring at the same time that we have a consistent and uniform approach across the province. Different levels of management will react differently to these ideas since people's thinking varies on the amount of control they would like to have. Nevertheless, there must be a happy medium and I hope to be able to encourage top level management to agree to a neighbourhood assessment concept where as much of the decision making as is humanly possible is left to people who are actually in the field meeting people on a regular basis and who ultimately have to take the brunt of the criticisms generated. While it is inevitable that certain decisions have to be imposed on assessors from a higher level, I hope that we can develop appropriate systems and data so that all assessors will be free to make decisions on property valuation, on how to best deal with and inform the public on various issues. I hope also that they will be trained, equipped and feel confident to make these decisions. The more confidence we can develop in the working level staff, the more responsibility they will take on and the less need there will be for decisions at head office or some central pool. At present, to a large extent, many assessors do not feel confident in making decisions. As a result, they phone in for help which they should not need. This results in directives going out to all assessors which cause discontent since some assessors already made decisions on the subject. Placing people in the position where they are capable of making decisions will automatically relieve senior management of many decisions. On the other hand, we would have to maintain a form of quality

control and have reports available to ensure that everyone is being treated fairly and equitably. The total organization must have a humane flavour about it. In the same way we expect managers to treat their employees well, each employee has the equal responsibility to have a good rapport with the public.

Aspects: Will training take on a more important role to prepare assessors for decision-making?

Mr. Gillis: Yes, training will take on a much more important role. The issuing of directives, the central provision of manuals and working tools will take on reduced roles.

Aspects: People are constantly worried that complement cuts may result with the implementation of neighbourhood assessment. What are your views on that?

Mr. Gillis: People will not be put out of jobs or displaced in any way because of neighbourhood assessment. However, coincidental with neighbourhood assessment and the re-turning of the roll at market value the shift to a two year valuation cycle will take place. Once this is accomplished, it is likely that we will require fewer employees than we now have. This number has not been determined as yet. However, no one will lose a job, as retirements or resignations take place those jobs would not be replaced. The staff would be reduced purely on an attrition basis. □



# DATA BASE

The Ministry of Revenue has a new Minister! We welcome the Honourable Margaret Scrivener who was appointed Minister of Revenue on February 3, 1977. Mrs. Scrivener was first elected to the Ontario Legislature in the general election of October 21, 1971 and re-elected in the general election of September 18, 1975. She is M.P.P. for the Riding of St. David, Toronto. Prior to her appointment as Minister of Revenue, Mrs. Scrivener was appointed Minister of Government Services on October 7, 1975, and Parliamentary Assistant to the Minister of Housing, April 5, 1974.

Mrs. Scrivener has served on a number of Select Committees, Standing Committees and Advisory Committees dealing with such matters as Corporation Law, Private Bills, Estimates, Housing Policy and Resources Development. She served as Chairman, Premier's Committee on the Status of Women, and of the Townsend Advisory Committee on Community Design. She is currently a Member of Management Board of Cabinet.

We take this opportunity to wish Mrs. Scrivener everything of the best in her new appointment.

We also take this opportunity to say good-bye to the Honourable Arthur Meen, our former Minister.

Mr. Meen was first elected to the Legislature as M.P.P. for York East in the general election of 1967.

Since his election to the Legislature in 1967, and his re-election in 1971 and 1975, Mr. Meen has served on a wide variety of legislative committees. Among these have been the Select Committee on Taxation, 1968; Select Committee on Corporate Law (1968-72), Chairman, 1971 - June, 1972; Chairman, The Pension Commission of Ontario, 1971-2; Cabinet Committee on Legislation, Chairman, 1975 to date.

In March, 1972, he was appointed Parliamentary Assistant to the Treasurer of Ontario with responsibility for numerous local government reorganizations. In February 1974, he was appointed to the Cabinet in the capacity of Minister of Revenue. After the general election in September 1975, he was also appointed a member of Management Board of Cabinet, as well as Chairman of the Cabinet Committee on Legislation.

As Minister of Revenue, Mr. Meen oversaw the administration of the major revenue-generating statutes for Ontario, as well as two important income redistribution programs: Guaranteed Annual Income System (GAINS) and Ontario Tax Credit (OTC); the assessment of all real property in Ontario at market value for property taxation; the enumeration of all residents in the province for the preparation of municipal voters' lists and jurors' lists; and the operations of the twenty-one branch offices of the Province of Ontario Savings Office.

He has been responsible for introducing and carrying a number of important statutes through the Legislature in his position as Minister of Revenue. Among them are The Land Speculation Tax Act, 1974; The Land Transfer Tax Act, 1974; and The Ontario Guaranteed Annual Income Act, 1974.

We wish to Mr. Meen everything of the best in his new appointment as Minister of Correctional Services.

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The Blair Commission on Property Tax Reform which has been travelling throughout the Province for the past 5 months has finally concluded its hearings. The Commission held 28 hearings and received in excess of 600 briefs. Presentations were made by various groups including taxing jurisdictions, business communities composed of small businesses and chambers of commerce, ratepayer groups, caucuses, public agencies and charitable organizations.

The Commission published its Report on March 10, 1977.

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The Assessment Review Court has appointed a new Chairman and Vice-Chairman. The new Chairman is Mr. B.H.B. Bowlby, Q.C. His appointment was effective December 1, 1976. He replaces the now retired Mr. Emil Pukacz. Mr. Bowlby has had a distinguished career in the Ontario court system. Some of his former positions are:

Member of the Greater Toronto Assessment Board in 1953.

Member of the Metropolitan Court of Revision 1954-1970.

Member of the Assessment Review Court since 1970.

Member of the City of Toronto Court of Revision prior to 1970.

The new Vice-Chairman of the Assessment Review Court is Mr. G. C. Hewson. His appointment was effective October 1, 1976.

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A new assessment commissioner has been appointed in Thunder Bay. He is Dennis Laughlin, former manager in the St. Catharines office. He replaces commissioner Terry Wilkes who is now commissioner in the St. Catharines office.

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In an effort to improve communications and information flow among all regional offices, the Assessment Standards Branch is sending complete texts of assessment court cases to all Regional Commissioners.

As a supplement to this, this issue of *Aspects* starts a regular feature which entails a list of the most recent court cases, and the section(s) of the Act to which they relate.

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Geographical re-organization was the focus of attention at a two day meeting of the Regional Commissioners in Toronto, December 1st and 2nd, 1976. The meeting was convened to discuss the implications of Neighbourhood Assessment for geographical re-organization, and to begin designing a geographical organization for each region in the Province.

As regular *Aspects* readers will realize, we have been particularly interested in following the development of geographics since our earlier interviews with Mr. P. G. Gillis (*Aspects* 7 and 16) in which as early as 1972 he indicated the Assessment Division would be moving in this direction. Then in *Aspects* 19 we presented a Special Report on *Neighbourhood Assessment in Ontario* which proposed more detailed plans and policies for the implementation of geographics.

These proposals were the basis of discussion at the December meeting of Commissioners. The meeting was organized in three sessions: the first was a presentation of the neighbourhood assessment concept and feasibility studies; and the second and third sessions included a general discussion of the proposals by the Regional Commissioners and an exchange of views with Mr. Gillis.

The presentations on the first day covered essentially the same range of topics as the Special Report. There was in addition, however, an analysis of the scope of special problems in the City of Toronto, and workload projections for the next 25 years in each region. The presentations were made by the members of the Project Team — David Montgomery, Drew Ritchie (now with the Retail Sales Tax Branch), Carl Christie, Lou Stadelmann, Kathy Day, David Stones (now with the Communications Office), and Wayne Maybee — and made extensive use of visual displays.

At the conclusion of the meeting, Mr. Gillis requested designs for Neighbourhood Assessment for each region for review in early January, and finalization by February 1, 1977.

The next meeting of Commissioners on geographical re-organization was convened on January 10, 1977 in Hespeler. The Commissioners submitted their preliminary designs for Neighbourhood Assessment and shared views on issues ranging from workload criteria to general organizational structure. Mr. Gillis responded to questions at a general session; then, with Mr. Jack Lettner and Mr. David Montgomery in attendance, Mr. Gillis met in separate discussion with each Commissioner to evaluate the plans for Neighbourhood Assessment.

The meeting concluded with Mr. Gillis' request for final designs by the February 1st objective. He indicated there will be further meetings in each Area to refine the details of the implementation plan.

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With the introduction of neighbourhood assessment, the role of assessment maps in the assessment function will become a more important one. Assessors working within neighbourhoods will begin to realize and appreciate to a greater extent the value of a good assessment map.

A study is currently underway on the existing conditions of the mapping sections throughout the province with a view to preparing them for the demands which will be placed upon them under neighbourhood assessment.



The Assessment Standards Branch has received a copy of the Canada-Ontario Great Lakes Shore Damage Survey. The Report was compiled by Environment Canada and the Ontario Ministry of Natural Resources as a result of the storm action of 1972 and 1973 which caused extensive damage to riparian property on the Great Lakes and connecting channels.

The results of the survey are presented graphically in a Coastal Zone Atlas and discussed in detail in a Technical Report. The shore property inventory (1973) involving approximately 50,000 riparian properties, was assembled through the cooperation of the various regional assessment offices. Data on these properties include shoreline damage, ownership, value, land use, physical characteristics and existing protective works in damaged areas.

Because of the wealth of information contained in the Survey, arrangements are being made to provide each assessment office with the information which is pertinent to the properties under its jurisdiction.



The second workshop for all Affirmative Action Representatives was held on February 10 and 11 at the Hyatt Regency Hotel in Toronto. The objectives of the workshop were to clarify the representative's role in the program; to provide representatives with career path information; and to give assistance in communicating the program more effectively.

Speakers at the workshop included The Honourable Margaret Scrivener, Minister of Revenue, Dr. Terry Russell, Deputy Minister of Revenue and Mrs. Gerry McBride, Manager, Retail Sales Tax, Ministry of Revenue.



Assessment Standards Branch Director, Angus MacKay, is a member of the recently established Ontario Residential Condominium Study Group. The Group which is set up by the Ministry of Consumer and Commercial Relations has as its Chairman, Mr. Darwin Kealey, an Ottawa consultant. Its other members include representatives from the Ministry of Housing, Ontario Housing Corporation, the Ministry of Consumer and Commercial Relations and the Ministry of Treasury, Economics and Intergovernmental Affairs.

The purpose of the Group is to study problems and potential problems which affect residential condominiums. Some of these problems encompass the requests by condominium owners who did not appeal their assessments to get grants equal to the tax refunds given to those who did appeal their assessments;

complaints by condominium owners that they are not receiving the municipal services consistent with the taxes they pay;

construction inadequacies in condominium developments;

voting requirements as outlined in the Condominium Act.

Mr. MacKay's main area of study focuses on the equity of assessments, and the effects of Bill 8 of 1975, Section 90(2) of the Assessment Act.

Public hearings are being held in 10 different regions throughout Ontario. A report from the Group is due in the Spring.

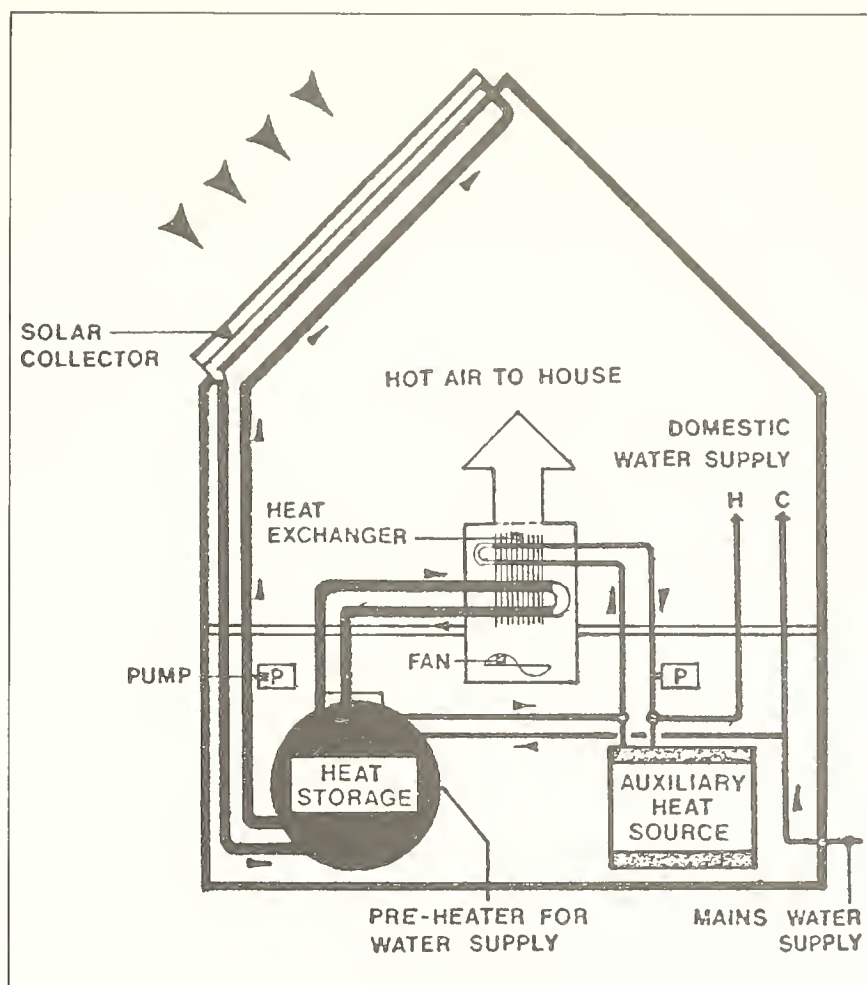


The Appeals Training Course which has been offered for the past 2½ years and taken by 680 assessors has now concluded. The Course was designed to prepare assessors for the task of defending and justifying market value assessments in court. Because some assessors have not had the opportunity to take the course, the next issue of *Aspects* will summarize the course so that all assessors will be given some preparation for the tasks involved in handling court cases.

A communications manual is now being developed by the Assessment Standards Branch to aid assessors in communicating with ratepayers at the open houses. The manual will also contain information material on other topics applicable to the assessor. Some of the topics are public relations, case law, the court system, and The Blair Commission. □



# Solar Energy: Inexhaustible, but economically viable?



△ Figure 1: A simple solar system.

PERCY D'SOUZA  
Assessment Standards Branch

"Canada is neither too far north nor too cold for solar energy technology to function"<sup>1</sup>. This statement from a study on renewable energy sources opens up a vast field for discussion on one of the most pressing issues of our time, because it suggests rather strongly that solar energy is a viable energy source today.

Solar energy offers several unique advantages of being pollution free, renewable and individually applicable in contrast to other energy sources such as nuclear power, coal or hydro electric power.

These advantages coupled with increased levels of research presently being directed at the potential use of solar energy in buildings of all types, suggest that this energy source will be more widely used in the future. Admittedly, the rate of diffusion will depend on a number of technological, economic, social, environmental and institutional factors.

In a solar-only heating system a choice exists between a system that utilizes air heating collectors and dry heat storage, versus a system with water or other fluid heating col-

lectors and water heat storage. At this point in time it remains to be determined which system will result in a lower cost performance ratio.

Figure 1 shows a simple solar heating system. It consists of three major components: the first, the solar collector is the part that collects heat from the sun and is generally mounted on the roof of a building. The second component within the system is the storage tank, which is usually located in the basement. The third component is the distribution system which takes the stored heat energy from the storage tank and transfers it to where it is needed.

The mounting of solar collectors on the roofs of single family residences is consistent with current state-of-the-art development.

## Solar energy in use

Increased use of solar energy is appearing all the time. Current uses in Ontario include space heating, the heating of swimming pools and domestic hot water systems.

At present there are three new single family homes in Ontario using solar heating and there are others that are either under construction or in the planning stage. The first of these completed homes is at 2940 Quetta Mews, Meadowvale, Mississauga. The heating system of this house is comprised of solar heat which is absorbed by the large south facing roof of the house which slants sharply. The 700 sq. ft. of roofing surface is made up of glass-covered metallic panels in which pipes are embedded. These pipes take water heated by the sun to two 2,500 gallon concrete storage tanks in the basement. The hot water is pumped to a heat exchanger that warms the air in a surrounding jacket, and from there a conventional forced air system distributes it throughout the ductwork of the house.

An electric heat pump will be used to extract further heat from the tanks and a stand-by electric resistance coil will maintain the indoor temperature when the water is not warm enough for any heat transfer. Solar energy is expected to provide 60% of heating requirements.

North of Toronto in King City, Canada's first fully solar-heated house has begun its first year of testing.

The solar system for Provident House as it is known was developed by Envirogetics Ltd., a company formed by Dr. Frank Hooper, a professor in the mechanical engineering department of the University of Toronto.

Provident House, has 4,000 sq. ft. of floor space that is heated by 60,000 gallons of water. The water is stored in the basement and routinely warmed by being pumped through solar heat collectors in the roof. Of approximately a dozen new houses in Canada with solar heating, it is the only one without a conventional system as an auxiliary or standby and has to rely solely on the sun for its space heating requirements. The Federal and Provincial Govern-

ments provided financial support for this house in addition to the house at Quetta Mews and the one at Gananoque.

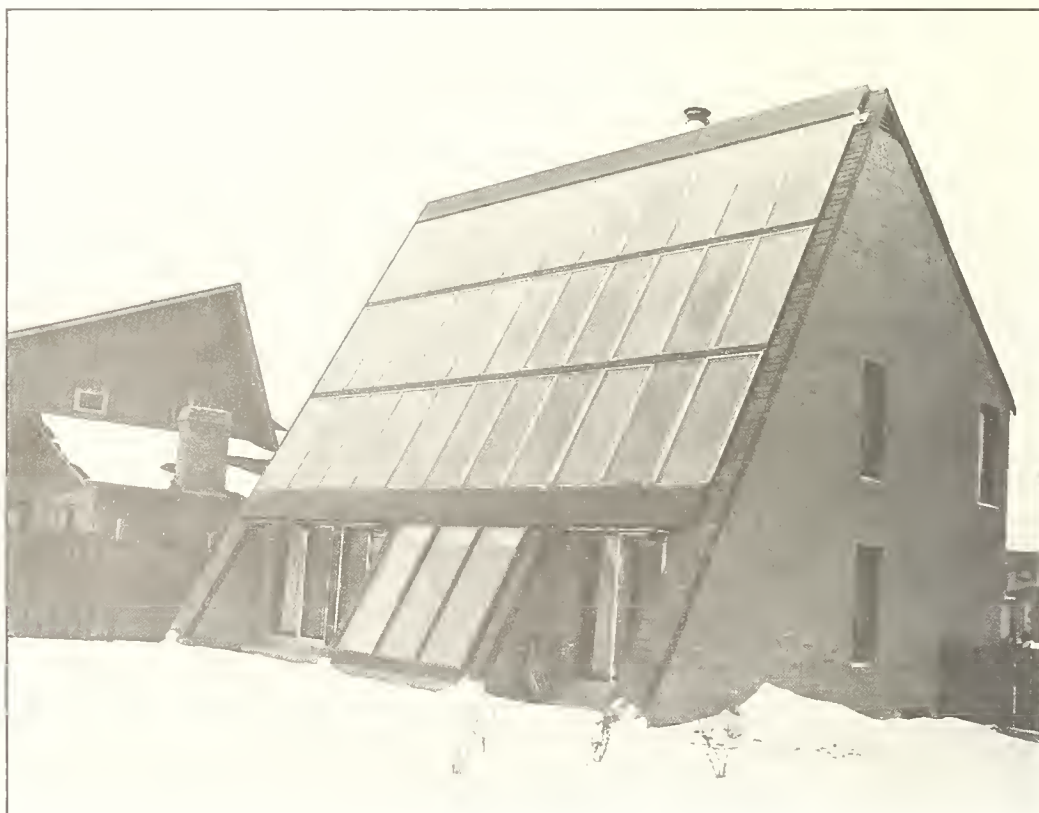
Since the completion of Provident House, Envirogetics has been awarded a contract to design a solar heating system for a 30 unit senior citizens home in Aylmer, Ontario. It is due to be completed some time this year. A number of other companies have also entered the solar energy field and are now engaged in 'retrofitting' solar systems to existing houses. It is estimated that about 50 such houses in Ontario are now being fitted with some type of solar heating with the existing gas, or oil or electric heating system working as a standby.

Architectural renderings are available which show the ability to add solar panels to the roofs of traditionally designed, contemporary and vacation residences without altering the basic aesthetics. A steeply sloping south facing roof preferably in the backyard is the best orientation for solar panels. At a recent seminar on Energy Conservation held at the Ryerson Polytechnic in November 1976 one of the speakers suggested that the day is not far off when a steep south facing roof would be one of the selling features of a house because of its potential for solar energy!

### How feasible is solar energy

An in-depth study of Canada's renewable energy resources and assessment of their potential has been prepared for the office of Energy Research and Development, Federal Department of Energy, Mines and Resources by Peter Middleton and Associates Inc. of Toronto<sup>2</sup>.

The following observations regarding solar energy are made in the Report:



△ Figure 2: 2940 Quetta Mews, Mississauga Solar Demonstration Project. Glass panels on south facing roof. Water is pumped to pipes at lower end of roof.

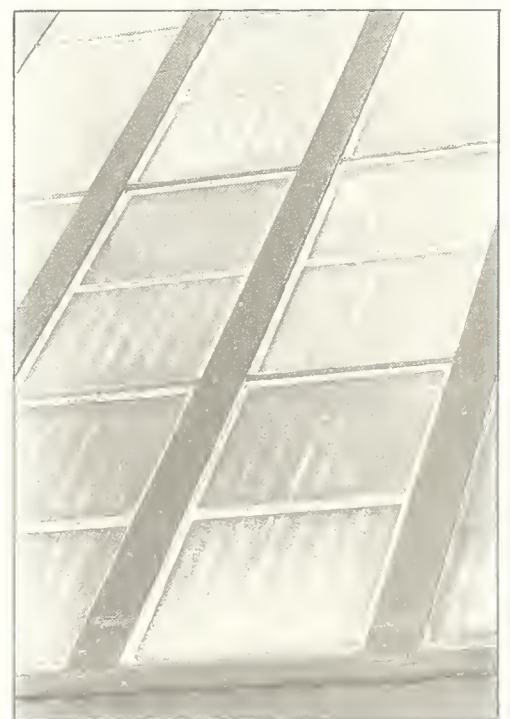


△ Figure 3: Canada's first totally solar heated home, Provident House, has been built by McClintock Homes in King Twp., north of Toronto. The solar heating system will be monitored for the next five years to determine its efficiency. McClintock will be studying energy conservation techniques which have been built into the house. The firm 'plans to incorporate as many of these features as possible into the homes as we build in the future'. The Ministry of State for Urban Affairs funded \$90,000 for design support on the project. The solar heating components were sponsored with a \$50,000 contribution from Ontario's Energy Management Program and Ontario Housing Corp.

1. Solar radiation offers the largest potential for economically supplying Canadian energy needs up to the year 2000. More than two-thirds of the country's population live in areas which enjoy adequate sunshine levels.
2. Canada is neither too far north nor too cold for solar energy technology to function.
3. Combined with proper waste heat management solar energy technology can probably supply the greater part of residential, commercial and industrial space heating needs or close to 25% of Canada's total energy demand.
4. Paradoxical as it may seem, solar energy installations would have the highest efficiencies in Winnipeg and Edmonton, and the lowest in Vancouver and Toronto.

technology. At a recent meeting a hypothetical study by Middleton Associates and Ontario Hydro was presented on the comparative amortized costs for installing and operating solar and conventional heating for an average house in the Toronto area. The author has also added a comparative study for a gas heated house.

As can be seen from the following charts, the conclusions of the studies differ considerably. The costs projected are 1975 costs.



△ Figure 4: Solar energy panels of Provident House.

### Concerned individuals and solar energy

The Solar Energy Society of Canada is a non-profit corporate association with international affiliates, composed of a large and growing membership of concerned individuals from all walks of life, including large numbers with professional, technical, engineering and teaching skills. The head office is in Winnipeg.

The objective of the Society is to promote the use of solar related technologies as well as the accumulation, classification, and development of relevant information concerning the collection and use of solar energy and to disseminate this information to the public. It also acts as a co-ordinating body for representatives of business, government and universities to appraise objectively the developments in the said technologies.

The Toronto Chapter of the Society holds regular meetings at which many interesting presentations are made, and where manufacturers display products in the field of solar



|                                                                 | Middleton Report         | Hydro Report             |
|-----------------------------------------------------------------|--------------------------|--------------------------|
| Location of House                                               | Toronto                  | Toronto                  |
| Floor Area                                                      | 1,500 sq. ft.            | 1,800 sq. ft.            |
| Annual Heat Load                                                | $100 \times 10^6$ B.T.U. | $110 \times 10^6$ B.T.U. |
| Collector Cost/sq. ft.                                          | \$5.00/sq. ft.           | \$8.00/sq. ft.           |
| Collector Area                                                  | 750 sq. ft.              | 1,080 sq. ft.            |
| Storage Reservoir                                               | 1,200 gallons            | 20,000 gallons           |
| Estimated Fraction of<br>Total Heat Supplied by<br>Solar Energy | 70%                      | 60%                      |

## COSTS

|                          |                                             |                                             |
|--------------------------|---------------------------------------------|---------------------------------------------|
| Collectors               | \$3,750                                     | \$ 8,640                                    |
| Reservoir                | 835                                         | 3,500                                       |
| Ducts, Piping, Controls  | 920                                         | 1,000                                       |
| Auxiliary Heating Source | 500                                         | 500                                         |
|                          | \$6,005                                     | \$13,640                                    |
|                          | = \$730/yr                                  | = \$1,608/yr                                |
|                          | when amortized<br>at 10½% over<br>20 years. | when amortized<br>at 10½% over<br>20 years. |

## COSTS OF CONVENTIONAL ELECTRICAL HEATING SYSTEM

|                                                                                                                                                                          |                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Electric Furnace and Ducts . . . . .                                                                                                                                     | \$1,400        |
| Amortized at 10½% over 20 years . . . . .                                                                                                                                | \$165          |
| Electric power at 1.6 cents per unit . . . . .                                                                                                                           | 309            |
| (60% only of total electric heat requirements considered for comparison with solar heating costs.                                                                        |                |
| The other 40% remains the same for both conventional and solar heated houses, i.e. it is assumed that solar energy supplies 60% of the heat for the solar heated house). |                |
|                                                                                                                                                                          | TOTAL \$474/yr |

The cost is \$474 per year for the first year only, the cost is assumed to increase thereafter at 12% per year. At this rate of increase for electric heating Middleton Associates estimates it would take 4 to 5 years for solar heating to catch up in costs with conventional electric heating. Ontario Hydro estimates, however, it would take up to 15 years to catch up. The whole study is hypothetical and the figures should be treated with caution. The greatest discrepancy appears to be in the storage reservoir capacity, and even after allowing for the difference in the floor areas of the two models, the storage tank in the Hydro model is 12 times as large as the one in the Middleton model.

## EQUATED COST OF CONVENTIONAL GAS HEATING SYSTEM

$$\begin{aligned}\text{Annual heat load} &= 60\% \times 110 \times 10^6 \text{ B.T.U.} \\ &= 66 \times 10^6 \text{ B.T.U.}\end{aligned}$$

(\* Here again only 60% of total heat requirements is considered as the other 40% remain the same for both conventional and solar heated houses. The assumption is the same as before i.e. that solar heating supplies 60% of the space heating in the solar heated house).

Assuming a 1975 rate of \$1.80 per 1,000 c.f. for gas and a conversion efficiency of 80%.

$$\text{Annual fuel cost} = \$148.50.$$

The cost of furnace and ducts has been assumed to be approximately the same for gas and electric heating.

$$\text{Cost of furnace and ducts} = \$1,400.$$

$$\text{Amortized at } 10\frac{1}{2}\% \text{ of over 20 years} \quad \$165$$

$$\text{Cost of Fuel} \quad \$149$$

$$\text{TOTAL } \$314$$

Assuming the cost of gas increases by 10% every year, it would take 9 years for a solar heated house to catch up in costs with a gas heated house according to Middleton Associate cost estimates and about 18 years according to Ontario Hydro cost estimates.

## Developments in the United States

John Wilhelm in his article "Solar Energy the Ultimate Powerhouse", in which he discusses the use of solar energy in the United States, states that there are more than one million roof-top solar heaters in use in many countries to provide cheap hot water for washing and bathing. These types of installations are quite common in the Soviet Union, Israel and Australia. In the United States, he says, more than 200 buildings are at least partially heated and some partially cooled by solar energy.<sup>3</sup>

Increased use of solar energy applications is appearing all the time. For example, a recent Land Use Digest Report, of the Urban Land Institute, reports that solar energy is selling in California and Colorado.<sup>4</sup>

The nation's first solar energy subdivision in El Cajon, California is nearly half sold according to the developer and reportedly there has been no consumer skepticism. The solar units designed to take care of part of the heating and hot water loads were estimated to account for 50% of the demand. The units which cost \$3,500 to \$5,000 have reduced the usual \$30 monthly utilities bill by as much as 80%, which works out to a 15% to 35% return. Sun heated condominiums are going up in Colorado and in Vermont, and solar heated government buildings and schools are being built in a half dozen other states.

## Solar energy and property taxation

Tax incentives to offset the relatively high installation costs are being called for and received in certain areas. Indiana has passed a law which exempts a solar heating and cooling system from property taxation. Real property equipped with a solar energy system is granted an exemption which is the lesser of the difference between the assessed valuation of the real property of the solar energy system and the same property without the system, or two thousand dollars. Colorado establishes the valuation for property tax assessments of solar heating or cooling devices attached to a part of a building improvement at five per cent of actual value of the device. Maryland provides that solar heating and cooling units in residential and non-residential buildings be assessed for property tax purposes at no more than the value of a conventional heating and cooling system necessary to serve the building. Other States which have granted exemptions include Arizona, Illinois, Montana, North Dakota, Oregon and South Dakota.

In Ontario it is likely that barring an unforeseen breakthrough in technology, a solar energy device will always have a conventional system as an auxiliary or standby source of heating. In view of this, incentives are needed of various kinds and at all levels. As Dr. Frank Hooper of the University of Toronto has said:

"We need some kind of incentive for solar heat users. Right now anyone who uses solar heat is actually allowing other buildings to use more of the fossil fuels (gas, oil, coal) even though there is a short supply."

The Middleton Report, in an effort to encourage the use of solar space heating which can save large amounts of fossil fuels, has suggested economic incentives for both users and manufacturers of solar energy devices at the early stages of production. The Report adds:

"The manufacture of tubular collectors lends itself ideally to complete automation. The glass tube industries ability to produce life long vacuum tubes such as T.V. picture tubes and fluorescent lighting tubes at low cost is well established. Once this technology is applied to solar collectors on a mass production basis, costs are expected to come down significantly."

Solar heating has now been approved in principle by the City Council for the new Massey Hall project in the City of Toronto. The Council has passed a resolution that its Building Department should cooperate with the project architect to implement solar heating. The resolution also urges the Provincial Government to consider a reduction in property taxes for the building on the basis of the installation of solar heating.

The Solar Energy Society of Canada has also made representations to the Blair Commission for exemption from property taxes for buildings with solar installations.<sup>5</sup> Specially, it has asked the Commission for:

- (1) An exemption against assessment for each property owner, equal to the value of the property improvement for a solar energy or similar system for a period of 20 years.
- (2) A rebate in tax dollars of up to 50% of the amortized cost (over 20 years) of the solar energy device installed if it can be demonstrated that the annual savings in non-renewable energy is less than the amortized costs of installing a solar energy or similar device.

The Society also gave an example of a house in Metro in which a solar energy device is installed along with a conventional system as auxiliary. The example went on to prove that for every dollar the homeowner saved for the Province in non-renewable energy (solar energy) he had to spend two dollars from his pocket! This naturally would not encourage the installation of solar heating unless more positive incentives are provided so that the homeowner could at least break even.

While it appears desirable that some type of incentive should be given to solar energy users it is still debatable whether this should be in the form of a tax exemption, or an outright grant. At the moment the Province is attempting to minimize property exemptions of all types, so that the climate hardly seems favourable for introducing a new one. Giving an outright grant towards the capital installation costs may perhaps be the better solution.

Solar energy now in its infancy undoubtedly has a bright future. Much has still to be done both on the technological and administrative front, before it can be adopted on a mass scale and become economically viable. However, in view of Canada's current fuel crisis it may provide a partial solution to our problem. □

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## FOOTNOTES

1. Middleton, Peter and Associates Inc., "Canada's renewable Energy Resources, An Assessment of Potential", A Study prepared for the Office of Energy Research and Development, Department of Energy, Mines and Resources.
2. *Ibid.*
3. Wilhelm, John L., "Solar Energy the Ultimate Powerhouse", National Geographic magazine, March 1976, Vol. 149, No. 3.
4. Cartee, Charles, "Solar Energy Installations: Trends and Lender Attitudes Bulletin 315, Journal of Property Management, Jan./Feb. 1976.
5. Solar Energy Society of Canada Inc., Toronto Chapter, "Brief to the Commission on the Reform of Property Taxation," November 1976.



▷ Three Toronto Assessors, Pat Newcombe, Ron Van Buskirk and Harvey Kaminsky downtown.



Toronto —  
the challenge of assessing a changing city.



What's it like assessing in one of Canada's fastest growing cities? *Aspects* went to the City of Toronto Assessment Office to find out. "In some ways, its unique," said Commissioner John Hall, "the City is alive, bustling, constantly changing, and the assessor's job is to keep abreast of the changing face of the City".

The City of Toronto has its share of special properties which form characteristic features of most large cities.

### Special properties

The job of assessing these special property types is handled by the Exempt Section. Gerry Watson, Exempt Manager states that assessing places like the CN Tower — the tallest free-standing structure in the world, Ontario Place — acclaimed for its unique architectural design, the 300 acres of the Canadian National Exhibition, Queen's Park — the seat of the Ontario Legislature, our internationally renowned City Hall and the 250 acres University of Toronto which comprises its own 'city within a city' — one can imagine the complexities involved because of the very nature of these buildings. The City of Toronto is also the only region to have the main subway arteries under its jurisdiction. As Gerry Watson puts it, "The springing up of office towers with underground retail malls at various subway stops, cause complexities in our analysis of the distribution of value to the various interests at the above-soil and sub-soil levels".

### Changing neighbourhoods

The boundaries of the City of Toronto encompass approximately 38 square miles with a population of 685,333\*, and a property count of 134,800. "These statistics are great", says Mr. Hall, "but they don't tell the whole story — what we must consider is the high density of the City". Arthur Lowry, P.A. 3 in the Residential Section

explains why the density factor and not solely the property count plays such an important role. He explains that at the present time residential properties, excluding apartments, in the City of Toronto number approximately 112,000 — very close to the number in the City in 1969/70. "Because of the limited vacant land within the City", says Mr. Hall, "there is little room for major housing developments. Therefore, the assessor's job is to examine what has happened to the actual existing residential accommodation".

Ron Skinner, Residential Manager explains that the majority of the residential properties in the City of Toronto were built in and before the 1920 period and the majority of them were single family homes. However, due to the inflation rampage which took place between 1973 and 1974, and the high financing costs, residential properties have experienced massive renovations, remodelling and additions.

Individuals have decided to improve the accommodation they have rather than relocate outside of the City. Entire areas are being revitalized. Therefore, these factors present new valuation problems for the assessor although the number of residential properties have remained the same. Where previously all the homes of 1920 construction were similar, now each house is different and has to be valued individually without the benefit of many comparables. Cabbagetown is one example of this situation. Most of the homes are of the early 1900 era and were previously occupied by low-income families. Now the area is becoming the home of higher-income people. At the start of the decade, the homes were bought at relatively low prices (the prices have now escalated) by professional people who have a desire to live in downtown Toronto because of its proximity to their place of work and to take advantage of the City's cultural activities. While this area may be viewed as one neighbourhood, each house has to be valued individually since each owner makes his renovations according to his own particular tastes. In addition, renovations to some houses may be spread over a

\* 1976 *Municipal Directory*



△ The commissioner and the managers of Toronto Regional Office mapping out strategy.

period of years, some may have stalled for a few years, others may be fully renovated. "Other neighbourhoods throughout the city are experiencing this changing facade." "In many areas of Wards 4 to 7," Ron Skinner continues, "assessors are faced with house by house valuation problems, due to the degree of renovations, remodelling, additions and spot zoning — the distance of a block can make sharp differences in value."

Because of the scarcity of land in the City, various methods are being devised to make utmost use of the existing available land. The infill concept is one method which is becoming more frequent in the City. For example, in the Clinton Street and Sherwood Avenue areas, lots are being subdivided, the existing structures demolished and row and stacked housing are being built in their place. "These are all part of the changing face of the City — new phenomena which assessors have to deal with, and which make assessing in the City interesting," Ron Skinner says.

### Unitized dwellings

Assessors must face also the additional and more frequent problem of what they refer to as "unitized dwell-

ing" within the City. This concept is springing up across the City for a variety of reasons: they make a practical investment; the low vacancy rate of apartments has created a demand for them; some families are no longer able to maintain or carry the tax burden of the larger one family homes. Homes that were formerly 1 or 2 family dwellings are converted into 5 and 6 family homes and furnished units. Unitized dwellings do not qualify as bachelor apartments as they lack individual bathroom facilities. They do, however, contain adequate kitchen amenities, usually a single pre-fabricated counter containing a sink, stove and small fridge with limited cupboard space. The units range between 100 and 150 square feet and command rents between \$45 and \$55 a week. This concept is growing at a rapid rate, especially in the Parkdale and Annex areas and parts of Wards 6 and 4. Assessors must use an additional approach — the income approach to value these types of properties.

Speculation and ratepayer groups

An additional variable, speculation, which has played havoc with the market, is an important variable in the valuation analysis of these types of properties, since sale transactions are based on the income potential of the properties and the anticipation of future development.

The preservation of existing neighbourhoods is a key objective of many communities within the City. The Beaches area is one example where preservation of the village atmosphere, and a strong ratepayers' association influential in restricting high-rise accommodation have had some effect on property values.

Zoning in an active market has a direct bearing on value and aids in keeping areas constantly in flux. As zoning changes, the density and utility, and thus value of certain areas change, bringing with it new complexities in the valuation analysis of these areas.

### 'The Islands'

One interesting community and one which presents a challenge to the assessor is the community on the Toronto Islands. Besides providing a place where city dwellers may escape, the Islands are home for about 250 families. These families own their homes but rent the land on a month to month basis from the municipality of Metropolitan Toronto. They live from day to day with the imminent



◁ Business as usual in the Residential Hi-Rise Section. Lou Shimbart, Peter Jensen, Terriq Abawi, Danny Doyle, Winnie Leung.

threat of eviction. Only some of the homes on the Islands are winterized. No real market exists for these properties, there are few homes on the mainland which are comparable to them, there are very few sales and all sales include chattels. Because of Metro government's threat of eviction, anyone who may purchase a home there has no idea of the duration of his stay. These factors often create problems for these properties in court.

### Ethnic communities

Some communities on the mainland present problems to the assessor which are just as interesting but different to those on the Islands. These are the communities formed by various ethnic groups who have made the City of Toronto their home. Toronto is well-known for among others, its Italian, Portuguese, and Chinese communities. Assessors encounter communication problems when they are assessing in these areas. These communities have their own businesses, retail stores, supermarkets and restaurants, the numbers of which are on the increase. The people can have almost everything which was available to them in their



former homeland. Thus the necessity to learn and speak English is not essential. "This communication problem makes the job of data collection extremely time-consuming" says John Vandentillaart, P.A. 4 in the Commercial Section, as he recalls problems encountered during the commercial update. What could have been accomplished in one visit requires several until arrangements for interpretation are made.

The commercial activity in these areas has had an influence on property values there. Jim Phillips, Commercial Manager states that the investment of foreign money in the Chinatown district, for example, has more than tripled property values there within the past three years. Prices per square foot in that area have now jumped from \$13 and \$14 per square foot to \$60 and \$70 per square foot. This is an imperfect market situation with which the assessor has to deal.

### Specialty-type restaurants

The changing character and rejuvenation of various areas throughout the City is bringing with it the evolution of specialty-type restaurants. It is becoming a common occurrence now to see old warehouses renovated into restaurants. The changing character of the Front and Market Streets area has brought the rise of the Hayloft and Old Spaghetti Factory. The trend has caught on and a new cycle has begun which assessors did not have to deal with before. New variables must enter into the valuation analysis. "When we have to value a restaurant now", says Jim Phillips, "we cannot consider only the other restaurants in the area, we have to consult the Industrial Section, Multi-Commercial Section, the Apartment and Hotel Sections. Because of the new type of property evolving, the valuation process is becoming an increasingly more complex one."

"We even have to assess a boat here in the City" he adds. Of course, he's referring to the popular Captain John's Restaurant. Formerly a boat which used to ply Northern Ontario's Lakes as a tour boat, for the past several years the boat has been used as a luxurious floating restaurant. A second ship — The Jadran — a 300 foot luxury liner which used to sail the Mediterranean is an even more luxurious floating restaurant anchored at the foot of Yonge Street near the first ship.

### Downtown Toronto

Downtown Toronto is renowned for its multi-storey towers with their underground malls. The City is the home of businesses from all over the world, and is the business and financial centre of Canada. The Toronto Dominion Centre, Commerce Court, First Canadian Place, Royal Bank Plaza have been termed cities in themselves. The TD Centre, as it's popularly known, has 2½ million square feet of rentable space, and a business population of 20,000. Ron Bailey, Multi Commercial Manager thinks that size and the agglomeration of these property types create their own complexities. Some of these complexities become apparent in the data collection process, the examination of leasing arrangements, the valuation of tenants improvements and their effect on the income stream, and the frequent and lengthy court battles. It is not uncommon, for example, to encounter firms which have more than 20 partners in each firm. The process of obtaining statistics on each partner and his wife can be a very time consuming process.

Said Mauntah of the Apartment and Hotel Section section says "Toronto is one of the convention centres of North America. We experience problems because of the increasing volume of large hotels entering the City."

Synonymous with the phrase 'downtown Toronto', is the phrase 'Yonge Street'. Yonge Street also is changing. Previously Dundas Street used to act as a dividing line for rental values of properties on Yonge Street. Now, however, because of the high density south of Dundas Street, there is a great demand for properties north of Dundas Street which has pushed up prices. Thus the rents in properties north of Dundas are not appreciably different to those south of Dundas. The newest major structure on Yonge Street in the downtown area is the Toronto Eaton Centre. The centre, has been termed the largest retail development in North America. This becomes evident when one considers some statistics on the Centre: It occupies 14.5 acres of land, it has two office towers of 500,000 square feet each, the Eaton department store of 1 million square feet, plans for 300 shops which occupy 550,000 square feet and parking for more than 1,500 automobiles. It will have a tremendous impact on values on Yonge Street. The most noticeable may be on the east side of Yonge Street. A sharp difference in value will be created simply by crossing to the other side



▷  
"That's a super job of filing, Ted", "but where do I find this property?" Walter Muger asks Ted Gibson.



▷  
 "Do I really have to go to *every* office in that building?" wonders Harvey Kaminsky. "At least you'll be warm," comforts Pat Newcombe.



of the street. Assessors will be faced with analyzing a completely altered market situation caused by the impact of the Eaton Centre on property values.

North of Dundas, development outside of the downtown core has rapidly changed the face of the Yonge/Bloor/Bay area. The area now consists of Manulife Centre, The Hudson Bay Centre and Cumberland Terrace — hotel/office/underground retail mall/apartment complexes — each termed individually a city in itself. Thus the complexities encountered by virtue of the size of these properties have also expanded along with the development of new commercial districts. The Yorkville/Cumberland area has experienced a complete transformation. In the 1960's it was considered a 'depressed neighbourhood', 'the home of the hippies'. Now, however, it is the home of the highest valued boutiques in Toronto. "Boutiques with 20 ft. frontages are selling at \$350,000 or \$225 per square foot", says Jim Phillips. "Yet, within a very short distance the prices may drop to \$50 per square foot". Condominiums in this area range from \$200,000 to \$500,000 per unit. Some people have even combined two units to make up a \$1 million condominium home.

Zoning and council by-laws play an important role in the valuation of properties in the core of the city. The review

and update of zoning by-laws have an effect on property use and value and assessors must consider them in their valuation analysis.

### Industrial areas

The industrial areas of the City are experiencing also a new facade due to high costs. Buildings that formerly had 1 or 2 tenants are now being unitized with multiple tenants. They are becoming income producing properties as well as industrial properties — complicating the valuation analysis for the industrial assessor. The impact of increased costs on industrial properties have caused Ed Johnson, P.A. 4 in the Industrial section to query, "what is the value of special type properties if certain large industrial firms move out? We may be left with buildings of negative value on our hands".

In addition to the changing nature of the existing industrial properties, assessors will have to deal with the new concept of Industrial cities. The new St. Lawrence Development in the Yonge and Parliament area south of Front Street is under construction. The city will have a population of 10,000 with 4,000 dwelling units, and retail, commercial and industrial areas totalling 1 million square feet of space — truly 'a city within a city'.

## Assessment services

The high density of the City causes unique problems for the Assessment Services section of the office. Harry Noble, Assessment Services Manager says, "it takes longer to balance one block in the TD Centre than all Ward 2 with its 10,000 mixed use properties. In the Transfer Section, clerks who can complete an average of twenty-five transfers per day, if working in the downtown core can only complete 3 or 4. Some downtown blocks cannot be easily reconciled because of the complications involved in the lot and plan descriptions which consist of various 'parts of parts'.

Problems are also common if there are more than 99 names on one property number. An additional occupant record would have to be made which brings with it its own complications.

With one million changes to the assessment roll in one year, enumeration and the issue of assessment notices are extremely busy times for the section. This is one reason why there must be a rotation system for the keypunch staff. Paul Rivers, Valuation Manager sums up the volume of work involved when he says, "The City of Toronto is the only region in Ontario that must have two tapes on the SAS file."

## Computer system appraisal for the future?

Toronto is a City in flux, neighbourhoods are being transformed, the central core is being maintained and expanded, new cities within the City are on the increase. It is indeed a challenge to the assessor to keep abreast with these

changes, together with those caused due to the expectancy of investors and speculators and the by-laws of city council. The municipality's determination to maintain the many historical buildings throughout the city, has also led to valuation problems.

Ron Bailey envisages the beginning of a new cycle for the City of Toronto assessor. He thinks the volume and size of property types warrant a computer system of appraisal for the urban centre. "We need fast retrieval capabilities that we can't get manually", says Ron Bailey. In fact, the system started 1½ years ago in the Multi Commercial Section as assessors work jointly with members of the Assessment Standards Branch in putting the skyscrapers of Toronto's skyline on computer. At the present time, sixty properties from the downtown core are on the data base providing the facilities for producing reports and manipulating data. The system has proved to be essential in the preparation of court cases. Print-outs are produced from the data base which aid in analysis and research for court preparation. "In the court environment" says Ron Bailey, "we are able with a portable terminal to produce almost instantaneous analysis, comparisons and computation checks of appellant adduced evidence".

Most of the people *Aspects* spoke to at the City of Toronto office thought that the diversity of the city with its stockyards, super highways, multi-storey office and residential towers, changing neighbourhoods, and special properties — a blend of the past, present and future — make assessing in the City of Toronto an interesting experience. □



## ON THE REFORM OF PROPERTY TAXATION IN ONTARIO



WILLIS L. BLAIR  
Chairman,  
The Commission on the  
Reform of Property Taxation  
in Ontario

The following is a reprint of a speech given by Mr. Willis Blair, Chairman of the Commission on the Reform of Property Taxation in Ontario, to a meeting of the Essex County Associated Growers at Leamington, Ontario, January 1977. We wish to thank Mr. Blair for granting us permission to reprint his speech.

Mr. Willis L. Blair has had a distinguished career in municipal politics. Prior to his appointment as Chairman of the Commission on the Reform of Property Taxation in Ontario on May 6, 1976, Mr. Blair held the following positions: Councillor, Township of East York (1959-1966), Alderman, Borough of East York (1967-1972), Mayor, Borough of East York (1973-1976), Member, Metropolitan Toronto Council (1967-1976), Member, Metro Toronto Executive Committee (1973-1976). Mr. Blair is now a member of the Ontario Municipal Board. [Ed.]

The commission on property tax reform has completed its meeting schedule. After receiving briefs from several hundred interested parties, ranging from individuals acting only for themselves, to groups and associations such as this, one thing is very clear — property taxation is a very controversial topic! The only strong point of agreement seems to be that no one particularly likes to pay them.

I am sure all of you have heard of the Commission, but I am equally sure that many of you must be thinking, "Why do we need *another* Commission on Property Tax Reform?" In order to answer this question, I would like to highlight some points which will provide a background to the establishment of the Commission.

In 1970 the Government assumed the responsibility for the assessment of property for the purpose of property taxation. Both the Smith Commission on Taxation in Ontario and the all-party Select Committee of the Legislature (The White Committee) had recommended that direct provincial involvement in the assessment process was necessary to overcome the lack of uniformity and the inconsistencies which had arisen under a decentralized system of municipal assessment.

In a recent address the Minister of Revenue, The Honourable Arthur Meen, made the following comments. "When the province took over assessment from the municipalities, there were some glaring injustices in the way properties were assessed, and people taxed. As we undertook to reassess all properties after 1970, we found many examples of gross injustices that could be directly attributed to the outdated assessment systems that previously existed. And even more alarming was the discovery that over 270,000 properties hadn't been assessed at all and, therefore, had *never* paid a penny in property tax.

Furthermore, one fundamental problem with the old assessment system was the fact that landowners and other property taxpayers simply could not make sense out of their assessments. And, quite frankly, I can understand why. Many aspects of the assessment manuals which were still widely used as late as 1970, were highly unsuitable. They simply did not adequately relate to the contemporary value of the property. A young couple, for instance, could not relate a \$6,000 assessment to the \$40,000 price tag on their new home," he continued.

"So, I think you can see why it was absolutely necessary for us to completely revalue all properties in the province. It was essential that we establish a meaningful and reliable assessment system. As long as the property tax is the major source of revenue for municipalities, the assessments on which property taxes are based must be consistent and fair."

I think no one can take issue with this last comment. But there were additional reasons for the province to become directly involved with assessment. The Government also recognized the desirability of a province-wide standard for the assessment of property in order to provide equity in regard to the cost-sharing arrangements between municipalities. These cost-sharing relationships took on increasing

significance with the reorganizations of municipal government units and school boards that have occurred since 1969.

The increase in financial transfers from the province to local governments also emphasized the necessity of consistent assessment practices on a province-wide basis. Local assessment became the basis, not only for taxation itself, but also for grant entitlements. It naturally followed that, whenever differences existed in local assessment, inequities cropped up in grants. The short-term solution, as some of you would know, was the adoption by the province of a system of Equalization Factors to correct for variations in local property assessments. But that system was a blunt instrument at best: it could correct for different growth patterns and valuation practices but it could not account for changes in the value of individual properties. It was quite obvious that the long term solution would involve the establishment of a standardized system of assessment, province-wide, based on market value. Both the Smith Commission and the White Committee had recommended reassessment at market value. Theoretically, at least, market value assessment had been a requirement under The Municipal Act since 1904. When announcing its intentions for property tax reform in 1969, the Government cited four specific objectives.

FIRST — The reassessment of all real property at current value.

SECOND — The establishment of an appropriate distribution of tax burdens among all classes of real property.

THIRD — To achieve a more neutral business assessment rate; and

FOURTH — To broaden the local tax base by removing exemptions.

It was obvious to the government that in order to successfully establish property tax reform a great many details would have to be resolved. It was also recognized that whatever changes in the system that were found to be necessary or desirable should be included when the market value standard is introduced.

The government's intention to introduce market value assessment is *firm*. The original, and optimistic, target date was set for 1974. But, along came the real estate boom. Prices began rising so quickly that some assessments became outdated almost overnight. With time however, the boom subsided and the Ministry of Revenue was able to complete its task.

Well here we are — we have come to the point that market value assessment is about to be implemented. The Government has detailed a set of proposals for a revised system of property taxation. And, the Commission on Property Tax Reform has been established to evaluate these proposals and make recommendations to the Government. The issues involved with these proposals are, in themselves, very broad and basic ones.

For example — what proportion of the total property tax revenue should be paid by residential property owners and tenants, for instance, as opposed to owners of commercial, industrial or other properties.

While this is one of the most basic issues to be considered, there are more:

— Should preferential taxation be given to certain properties that are now taxed at the residential rate, even though they are not, in fact, residences? These now include

vacant commercial and industrial property, vacant land, lodges, clubs, golf courses, among others.

— How should farms be taxed? Should a farmer's residence be taxed on the same basis as the productive land surrounding it? Should the province provide assistance towards relieving the tax burden on farmland?

— Is it a good practice to levy different mill rates for residential and commercial properties, or is it possible to devise a simpler formula?

— Should such organizations as the United Way, the Red Cross, the YM/YWCA, the Boy Scouts, the CNIB and others, enjoy exemptions for property taxes, as most do now, or should they pay full taxes and receive assistance from the public purse in some more direct and more identifiable manner?

These are all important issues and the Commission is grappling with each and every one of them. Let us for a few moments, however, look at those proposals which are of interest to you as individuals and as members of this association. As individuals, I venture to say you are interested in the first two proposals effecting the taxation of residences. As members of this association, your interest no doubt also lies with proposal 4 — the farm proposal. Because a great many of our letters and submissions addressed proposal 7, the taxation of charities and private schools, I will say a few words about it.

The first two proposals relate to the differential tax treatment of residential properties and other properties. It is proposed that residential properties be taxed at 50 per cent of market value and all other properties at 100 per cent. The result is, as the proposal states, that such properties will, as a class, bear a reduced share of the total property tax burden. One of the misconceptions of this proposal that has arisen is that the discounting by 50%, results in a net gain to the residential class, this is not the case.

The Government of Ontario has previously recognized that the occupants of residential property did not have the same capacity as the occupants of other types of taxable property to bear taxes. For this reason, the residential mill rates across the province are 15 percent lower than those for commercial properties for municipal purposes, and 10 percent lower for school purposes.

Also, given trends in the real property market, over the past several years especially, residential property values have escalated more than the values of other properties. Residential taxpayers, owners and tenants alike have been protected from most of the tax shift which would have subsequently occurred, by the freezing of assessments in 1970. Thus, the proposal is not to shift taxes to non-residential properties from residential, rather, it recognizes that the sharing of the tax burden between classes, as it now stands, has a high degree of acceptability. Therefore, the proposal basically retains, by class of property, the existing distribution while passing on the benefits of the removal of exemptions of all taxpayers, residential, farm, commercial or industrial. Thus, as shown in Budget Paper "E", taxes on residences as a class do fall, but not at the expense of the other types of property taxpayers.

*Proposal Number 2* is simply a cleaning-up in respect of the principle I have just stated, that is, that residential property taxpayers do not have as high a capacity to bear taxes as others. They can not pass the burden of taxes on. If this principle is accepted, then we must assure that only residen-



tial ratepayers receive the benefits and the system is not made inequitable by extending them to non-residential classes.

I will now turn to the proposal regarding farm taxation, Proposal 4. This proposal along with number 7 has created the greatest concern. By and large the farm community told the Commission that it is not unhappy with the present set up. The proposal to tax farm residences at 50 percent of market value, the taxes to be paid by the farmer, and to tax farm land and out buildings at 100 percent, the taxes to be paid by the province is actually just a simplification of what is already happening. I believe that it was in 1970 that the Government introduced a program to remove the burden of education taxes from farm land. It was a 25 percent rebate of taxes on the total farm property based on the assumptions that, on average, 50 percent of local taxes were for education and 50 percent of farm assessments were for land, the balance being for buildings including the residence, thus, 50 percent of 50 percent led to the 25 percent rebate. In 1973 the government increased the rebate to 50 percent virtually providing a complete exemption from property taxation for all farm land.

The government therefore adopted the policy three years ago, that the levying of taxes on farm land was too onerous a burden on the main productive resource and should be removed. This Proposal extends that policy, while allowing for individual differences where the farm land is greater or less than 50 percent of the value. It clears up the problem of income tax reductions appearing to apply to the taxes on farm residences and assures that urban taxpayers who share costs with farm taxpayers will not suffer as they would with an outright exemption on farm land taxation. I would like to add one further point to this particular Proposal, in regards to the taxes to be recovered by the province if and when the property changes use. The Proposal is no different than the present system. The government would recover the taxes it has paid on farm lands for a maximum of ten years but only when the property actually changed use. There would be no liability until that point and it would be the responsibility of whomever changed the use to repay the taxes. There is therefore no ulterior motive, as far as I have been able to detect, that the province is rushing to get a lien on farm lands and to control agriculture, I can only think that if that were the case, then it's a pretty round-about way of doing it.

The submissions, however, did tell us loudly and clearly of two very strong objections that the farmers have with the Proposal as it stands. Number one is with accepting a 100% tax payment from the government. 100% gives the appearance that the farmer is surrendering his land ownership to the community at large. Number two, is that a lien is unacceptable even if that lien is only activated by a change in land use.

Having looked at his objections, let us look at what the farmer appears willing to accept. With respect to his residence the farmer by and large, is receptive to paying for municipal services just the same as the non-farmer. That is, the farmer agrees to paying taxes on 50% of the market value of the farm residence and one acre or so of farmland surrounding it. There is the one provision, however, that the farmhouse and acre would have a market value of something less than a comparable residence on a severed lot because it is still legally part of a larger parcel.

The differences therefore really pertain to the taxation of farmland and buildings. What share of municipal costs should be paid for by the property taxes on farmland and buildings?

Some of those who appeared before us answered this question with a phrase I am sure you have all heard. It goes something like this — services to people should be paid by people and services to land should be paid by land. Let me stress that the property tax is not a user fee paid for a particular service. It is paid by all members of the community and the amount paid is based on the value of property owned. It is unfortunate that the current farm tax reduction program of 50% appears to absolve the farmer of paying education taxes. This was not the Government's intention. As I mentioned earlier, the program was intended to remove all property taxes from farmland and buildings.

Another solution suggested to the Commission was the taxation of farmland on a market value in use or productivity market value. The problem with this approach is that it is a fundamental departure from market value as it is applied to other property. The problem then becomes one of where to draw the line in departing from market value. Value in use or productivity value is also applicable to golf courses, seasonal resorts and camp grounds all of which require a large land component, land which in many cases will have a substantial value on the open market.

The task before the Commission is not easy. The tax system must result in a fair distribution of property tax among all taxpayers. The level of tax must be an amount which the taxpayer can reasonably be expected to pay. And the tax base, the assessment, must be consistently determined. The Commission is wrestling with a solution which will meet these criteria and will also be acceptable to the farm community.

As I have said, the greatest amount of discussion has centred on the proposals relating to the taxation of charitable institutions and farms. Proposal 7 regarding the taxation of charitable institutions and private schools is often an emotional issue and some people making presentations to the Commission began with some misconceptions regarding the proposed system and as a result suggested that this was just another sly way for the government to increase taxes, or assume control of farmland, or force the closing of many fine, established charitable institutions and schools.

Nothing could be further from the truth. In fact, the Commission was established to provide the public with an opportunity to play a significant role in the development of a revised and more equitable system.

As a final point I want to assure you that the Commissioners have taken up their task with their minds as free as they possibly can be of any preconceived notions of what changes should or should not be made in Ontario's property tax system. I want to emphasize that we have no intention whatever of rubber-stamping any of the Government's proposals. That's not what the Government wants us to do and that's certainly not something I would agree to, regardless of what the terms of reference said. If I didn't have a free hand, I wouldn't be chairing this Commission.

I hope these rather informal remarks have helped to explain the context of the Commission's assignment. If you have some other questions in mind, Mr. Chairman, I would be pleased to respond to them. □

# Tax Reform in Ontario

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The following article was first published in the December 1976 issue of *Municipal World*. Its relevance to assessors warranted its reprint in this issue of *Aspects*. We wish to thank *Municipal World* and the author for granting us permission for the reprint.

Mr. R. J. Rooks was Municipal Treasurer of the City of Sudbury from 1970 to 1974. Since 1974 he has been Municipal Treasurer of the City of Burlington. He is presently Chairman of the Sub-Committee on Financial Reporting of the Association of the Municipal Clerks and Treasurers. [Ed.]

The Ontario government has reaffirmed its intention to update property values for municipal taxation and bring them into line with market prices during 1977 for the calculation of local government taxes in 1978.

They have recognized that the present assessed values are significantly out of touch with the economic realities of the market place and that this change may have marked repercussions on individual taxpayers. Wisely therefore, they are proceeding with caution and have put forward "Proposals for discussion"<sup>1</sup> and comment by interested groups and have established the Blair Commission<sup>2</sup> to investigate and report on this matter.

The proposals for tax reform consist of 15 suggestions or statements of policy, not all of which are directly related to the conversion of assessment to market; the intention is at the same time to broaden the tax base to include all real property (except churches, cemeteries and Indian lands) and to make all government property fully taxable.

In order to make allowance for varying rates of increase in taxable assessments when converted to market and lessen the impact on certain classes of taxpayers, the provision is made for exemption of 50% of the value of residential property from taxation and full payment by the Province of all taxes on land used for farming or "managed" forestry, with subsequent recovery of these taxes when and if the lands change use. As well, provincial grants will be paid on municipal taxes charged to grant supported government units such as school boards, hospitals, conservation authorities, health units and universities and colleges.

It is of course possible, and desirable, to comment on the proposals from a theoretical viewpoint, based on general principles and the probable impact on the various classes of taxpayers. However, it quickly became apparent that the content of the submissions by municipalities to the Commission would be much more meaningful if they were supplied with data on market value assessment by the Province. At the suggestion of the Blair Commission, the Ministry of Treasury, Economics and Intergovernmental Affairs has made available to municipalities and school boards, the market values of taxable property as presently estimated<sup>3</sup> for selected areas of the Province.

From the information thus made available for the Region of Halton and its area municipalities, the impact of tax reform as proposed on the various classes of taxpayers and upon municipal finances has been calculated. It is suggested that the following analysis may be of interest in showing the specific impact of tax reform on one particular municipality in the heavily urbanized corridor of Southern Ontario. To a very significant extent, the conclusions reached are likely to be valid for most municipalities in Ontario, provided allowance is made for the particular circumstances of each local area.

## Assessment values

The increase in assessment to market value represents a very substantial change, more than would be expected based on the average equalization factor which had previously been established for Burlington (27.2). The various classes of assessment increase in general by about 6 times but some classes are increased very substantially above that figure. For example, farm land is 101 times the value previously ascribed to it, and recreational dwellings 12 times the previous figure. As a whole, residential properties increased slightly over 8 times while commercial and industrial properties are up about 6.4 times.

Because residential properties are to be assessed at only 50% of their market value under the new proposals, and



because of the substantial increase in the value of farm land and the assessment of government properties for taxation the proportion of the total taxable assessment attributable to residential property declines very significantly from the previous figure. After tax reform, the taxable residential property represents 53.5% of the total taxable assessment, while at the present time, the proportion is 70%. Commercial and industrial remains at approximately the same proportion of the total in our case, while farm land climbs from less than 1% to about 11% of the total taxable assessment.

Not only are there significant shifts between the various classes of taxable assessment within Burlington, there is also going to be a significant shift in the ratio of our taxable assessment to other municipalities in the Region. The market value data indicates that our share of Regional and School Board levies will decline by about 4% (equivalent to approximately \$1,400,000 in 1976) while that of two other area municipalities increase. Factors which are responsible for these shifts are:

- the present market-assessment ratio in each municipality,
- the residential-commercial assessment ratio,
- the amount of government owned property in each municipality not previously included in the apportionment calculation, and
- the amount of farm or forest land in each municipality.

Impact on taxes

I have attempted to predict the impact of the tax reform proposals on mill rates and on the taxes of various classes of ratepayers. The calculations are sufficiently accurate I feel, to indicate trends, but it must be noted that they are necessarily approximate and must be based on certain assumptions, which are noted below.

Assumptions

- That the rate of provincial grants remain the same for municipalities and their boards with the exception of the Resource Equalization Grant payable to the area municipalities. Since the change to market value assessment will substantially increase taxable assessment values far in excess of those obtained by using the present equalization factors and since the Province will be putting considerably more money into the municipalities by way of taxes under these proposals, we have thought it only fair to assume that we will no longer receive a Resource Equalization Grant.<sup>5</sup> (This was budgeted for in total in our 1976 budget at \$450,000.)
- In order to make the revised tax calculations comparable with 1976, it has been assumed that all other provincial grants stay at the same level as 1976 and that the present rates of grants are applicable to the municipal taxes payable by school boards, regions, conservation authorities, etc.
- Again, for sake of comparison, we have kept other factors included in the 1976 tax levies the same, such as surpluses from the preceding year and other grants and revenues.
- No business assessment has been attributed to federal or local government properties or to provincial properties, nor to railway and transmission assessment. In general, busi-

ness tax has been applied at the new 50% rate only to those categories where business assessment presently exists.

- The assessment for charitable organizations which we understand is shown on the computer printout as "Other Exempt" has not been included in our calculations since we have assumed that the municipality will pay grants to these organizations equivalent to whatever tax is imposed on them.

The method followed has been to recalculate mill rates for the City of Burlington for local, regional and school purposes based on the 1976 tax levies, but adjusting these for the taxes payable (after provincial grants) by the region and schools and the local municipality, and eliminating any obvious changes such as the grants in lieu of taxes on government property, the Resource Equalization Grant, etc. The revised mill rate for the City comes to 17.8 mills compared with a figure of 102.9 mills for the urban residential ratepayer in 1976, a ratio of one to 5.8.

These rates were then applied to the residential and commercial assessment to indicate the change in taxes. The average residential assessment in Burlington in 1976 was \$6,545; after tax reform, it will be \$55,304 prior to the 50% exemption, an increase of 8.4 times. When the new mill rate is applied to the new taxable assessment, the average tax payable by the homeowner is \$492 compared with \$673 prior to tax reform, a decrease of \$181 or 27%. The total taxes payable by the residential ratepayers will decline from \$21,468,000 to \$15,691,946.

The total tax payable on the old commercial-industrial assessment as shown on the computer printout would have amounted to \$8,117,806 applying the commercial mill rate in the urban area in 1976. After tax reform, the total payable will be \$7,412,000, a decrease of \$705,000 or 8.7%.

To illustrate the above, and to take into account the varying rates of business tax now being paid, the tax is worked out on a commercial assessment of \$30,000 under present business rates of 30, 50, and 60%. The results are as follows:

| Present business tax rate     | 30%     | 50%      | 60%      |
|-------------------------------|---------|----------|----------|
| Present taxes                 | \$4,597 | \$5,305  | \$5,658  |
| (realty and businesses)       |         |          |          |
| After tax reform              | 5,134   | 5,134    | 5,134    |
| Tax increase (decrease)       | \$ 537  | \$ (171) | \$ (524) |
| Percent - increase (decrease) | 11.7%   | (3.2%)   | (9.3%)   |

Obviously, the rate of business tax presently being paid will have a significant effect upon the individual business. Most of the businesses in Burlington have a business tax rate at the present time of 30% (i.e. 46% of the realty assessment is in this category). The other big category is at 50% which represents 30% of the total realty commercial assessment. There is also a very substantial industrial assessment at 60%.

Discounting the residential assessment by 50% together with the other tax reform proposals does produce a very significant drop in the taxes payable by the residential ratepayers, much more so than the commercial-industrial ratepayers. The analysis done by the Province in the Region of Niagara indicated a drop of 24%, and the Treasurer of Oakville has carried out a calculation which indicates that their residential taxpayers will pay 28% less taxes.

## Taxation of farm land

The market value data indicates a tremendous increase in the taxable assessments for farm land in Burlington — from \$1,786,000 to \$181,058,000 (101.4 times). This is the case also in Oakville and is probably true for all municipalities in the "Golden Horseshoe" area and the larger urban centres elsewhere.

It is understandable that the Proposals should contain provisions to mitigate the effects of Tax Reform upon farmers; however, full payment of all taxes on farm lands (excluding the residential portion) will provide even more subsidy to farmers than now exists. In the example in the Budget Paper, taxes paid by the farmer with a "modest residence" would decrease from \$1,150 to \$300 per year, and a 'nominal' farmer with no residence on the property (e.g. a developer) would pay no tax at all.

It is questionable whether farmers as a group should be subsidized any further than they already are, and in particular, it would be most unfair to allow the provincial subsidy to those who do not fully utilize the land to earn a living — even though the tax is subject to recapture when the land use changes.

An important element in the tax reform proposals should be a clearer definition of farming to exclude the speculators. This might be done by reference to the value of production from the land with the measurement criteria varying with the location of the farm and the type of farming. Farmers could be required to file returns which would be subject to audit and comparison with their tax returns.

The proposals for subsidy will involve the Province in extremely large grant payments — in Burlington alone \$3,115,407, and in Oakville, \$4,449,000. This compares with total Provincial grants to Burlington budgeted for in 1976 of \$4,017,148 and Provincial rebates to farmers under the present system of \$107,425.

While the subsidy will obviously be heaviest in municipalities in the Toronto-centred region, the total for the Province will no doubt result in very substantial demands upon the Treasury.

## Taxation of public property

This proposal has been criticized as producing unnecessary and largely meaningless paperwork. However, it should be realized that, not only do municipalities derive substantial additional revenues from the full taxation of provincial property, hospitals, universities and colleges, etc. (which it is stated will be covered by provincial subsidy and therefore properly supported from the wider tax base of income and sales taxes) but even in the case of local government property, such as schools, conservation authorities, health units, etc., there is a net gain to local government as a whole to the extent that these taxes are subject to the provincial grant rates for these institutions.<sup>6</sup>

## Provincial grants

Taxes paid by the provincial government and grants based on the taxes payable by other provincially supported institutions will result in an extremely large increase in provincial payments. Our calculations for Burlington indicate an *increase* in provincial payments-in-lieu of taxes or taxes of \$4,147,002. This is a tremendous increase when compared with the *total* receivable in 1976 by Burlington

of \$4,017,148 and is primarily due to the tax subsidy on farm land.

It seems quite obvious that the Province will not be able to afford this level of payment without cutting back the present grants to municipalities. Accordingly, we have recalculated the impact on the residential and commercial-industrial taxpayers of a reduction in Provincial grants *equivalent to the increase in taxes* for which they are responsible. This in effect wipes out all grants to Burlington.

In the example given in the Budget Paper for Niagara, the same assumption was made by the Province and from statements made since by the Treasurer of Ontario and in talking to officials of the Ministry of Treasury, Economics and Intergovernmental Affairs, it is becoming more and more obvious that there will be an equivalent reduction in Provincial grants to offset the increased Provincial payments, probably with some allowance for an increase in *grants and taxes in total* consistent with the "Edmonton Commitment".

The impact of the reduction in grants equivalent to the increased taxes is 2.5 mills in the City of Burlington so that the new mill rate would be 20.3 mills instead of 17.8 mills.

Applying the new mill rate to the taxable assessment for the residential and commercial-industrial taxpayers, there is still a reduction in the total taxes paid by residential property owners of \$3,572,304 or 16.6%. However, the total tax payable by commercial-industrial taxpayers *increases* by \$335,520 or 4.1%.

The impact of the tax reform proposals on the provincial treasury and therefore on provincial grants to local governments is so important that it is very difficult, if not impossible, to accurately assess the effects on local government finance without more information. What is needed is a clear statement of policy from the Province so that we can work out the financial effects of the entire package on municipalities in various locations and with varying fiscal characteristics.

## Desirable objectives

In the absence of such a statement (and in all fairness, the development of such a policy will involve substantial research and interministerial negotiations) we can only speculate on the probable pattern and indicate some of the desirable objectives, viz:

Boards and other local bodies — It seems likely that provincial grants will have to increase to school boards, universities and colleges, hospitals, homes for the aged, etc. since these bodies are already under considerable financial pressure and are not deriving any additional revenue through the tax reform proposals. In fact, they are being faced with additional expenditure and it can be expected that the Province will have to subsidize this expenditure at least at the rates to which they have previously subsidized these institutional expenditures; they have included a statement to this effect in the proposals. This will leave even less money available to the municipalities themselves.

Deconditionalization — Since the province has indicated support for a program of deconditionalizing grants, it is most likely that the conditional grants to municipalities will disappear first. This is not necessarily a negative factor, since municipalities have been asking for some time to be given more autonomy and have grants without "strings attached". Moreover, it is clearly preferable to have a statutory right to full taxation of all government property,



farm land, etc. than to be dependent upon grants which can vary with the mood of the government in power.

But what will be the effects of the elimination or very substantial reduction of such conditional grants as road subsidies, transit operating and capital subsidies, housing grants, Wintario and other recreational subsidies? The results will be very different for small rural and large urbanized municipalities because of their varying degree of dependence upon these grants and the amount of new taxable assessment they are likely to acquire.

Moreover, many of the conditional grants are directed towards capital expenditures (roads, transit, housing) — unconditional grants at the present time are based on annual tax levies or at least applied thereto so that their elimination or reduction will be felt most in the area of capital improvements and development of the municipal infrastructure.

Selective grant structure — transitional payments — The new grant structure will have to be very selective and/or include substantial sums for “transitional payments” because the effects of tax reform will vary widely depending upon such factors as:

- The value of farm land in the municipality in relation to previously assessed values.
- The mix of residential and commercial assessment.
- The amount of assessment picked up by full taxation of all government property.
- The importance of Ministry of Transportation grants to the municipality.
- Disparity in the ratio of present taxable assessment to the new market values within districts of each municipality or between area municipalities in a region, county or school board district.

Resource Equalization — General Support Grants — This analysis would indicate that increased emphasis will have to be given in the grant structure to the “Resource Equalization Grant” which is calculated to discriminate between municipalities on the basis of need, and less money directed toward “General Support” or per capita grants.

Unfortunately, it will probably also be necessary to provide for a substantial amount of discretionary power for provincial officials to supply funds to those municipalities whose needs are obviously not met by the general formulae of tax reform and resource equalization.

In summary, I feel that the province is to be complimented on its efforts to bring our municipal taxation system on to a common equitable tax base in keeping with the value of property held by each taxpayer, while at the same time broadening and rationalizing the structure of taxation. Moreover, the approach of providing market value data and allowing for public reaction to the proposals is to be commended.

However, the data released for the Region of Halton and in particular the City of Burlington, indicates that there will be very substantial shifts in the burden of taxation and far-reaching effects upon the entire municipal grant structure.

It is suggested that these effects will have to be thoroughly researched for all the various types and circumstances of municipalities in Ontario. Substantial revisions to the grant structure will have to be formulated and should be made known to all local government and educational institutions in the Province, together with updated market value data, so that the legislation for tax reform can be evaluated and commented upon well in advance of implementation.

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## FOOTNOTES

1. Reform of Property Taxation in Ontario — Ontario Budget Paper E - April 1976
2. Property Tax Reform Commission; Chairman Willis L. Blair
3. It is understood that in general the figures are up-dated to 1975.
4. Burlington, Oakville, Halton Hills and Milton.
5. This was budgeted for in total in our 1976 budget at \$450,000.
6. In the case of its own property, a municipality neither gains nor loses. The beneficial effect of the increased assessment is exactly offset by the taxes payable including schools and upper tier).

# A commentary on The Ontario Land Speculation Tax Act

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We wish to thank the Appraisal Institute Magazine and the authors for granting us permission to reprint this article. The views expressed in the article are entirely those of the authors. They in no way reflect the views of this Ministry. [Ed.]

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## Introduction

Land development, land use control, and taxation of real property have been topics of discussion and public debate for as long as we have been a nation. Recently, with increasing urbanization and corresponding pressures on property values, the questions of how the benefits and costs of the development and use of real property are to be distributed so as to benefit both the community and private land-owners have become urgent issues. One result of this heightened concern is a re-examination of taxation policies and their affects on real property markets.

In the past few years, there has been a growing interest in extending the taxation of real property beyond the level traditionally prevalent in Canada. Suggested extensions are generally of the form of an additional tax on capital values levied at the time a property is transferred. The justifications made for these extensions are numerous, but three general propositions can be identified. These include:

- 1) to recover for the public a major share of capital gains accruing in land or real property (revenue)
- 2) to temper land and house price escalation by reducing speculation in real property (price manipulation)
- 3) to influence market allocation of real property through tax discrimination between competing demand units.

The first two propositions are of some antiquity in the literature on public policy and real property. The first rests on the notion that a major share of 'gains' from real property are a direct result of public expenditures and public decisions, and, therefore, that the public ought to recoup their share of the gains.<sup>3</sup> While it is obvious that some portion of capital appreciation in real property is the result of public actions, the same can be said of profits arising in many other markets. There is no unique reason to single out profits on real property for a special tax, over and above normal income tax. Nevertheless, the possibility of recouping land profits for the public has captured the imagination of many public officials and academics.

The second proposition, to utilize a taxing scheme to temper speculation, assumes that speculators can be identified and, once identified, that the control of this group will materially alter the price of land and developed properties, most significantly housing prices. This proposition is naive in that it implicitly assumes speculation causes price increases, without considering the relationship between speculation and price determination in real property markets. While it is a politically convenient ploy to blame speculators for many problems which are perceived in property markets, the proposals to control or eliminate such activities are seldom successful. Moreover, a careful examination of the operation of real property markets would indicate that speculative activity is not responsible for rising prices of real property.



The third proposition, to use a land taxation scheme to influence market allocation amongst competing units in the market, is manifested in a desire to control activities of certain groups of owners or potential owners in society. Presently, in Canada, the use of taxation in this area is a matter of political convenience. The main area of application of a differential tax, in particular a differential transfer tax, relates to the question of alien land ownership. The use and effects of controls on alien ownership were discussed by the authors in a previous article.<sup>4</sup>

These three propositions give rise to a revived interest in the taxation of real property. In each area, the taxation could take the form of an amended version of the local real property tax, or alternatively, as an additional tax on capital value, generally collected, as an administrative convenience, when capital values are realized on transfer. In this article, the latter case will be examined since the literature concerning various forms of local real property taxation on a per annum basis is extensive and is not of direct concern in this context.

As with any taxing scheme, the impact in the market will depend to a considerable degree on the subject matter of taxation (the tax base), the exemptions and reliefs, and the measure of liability (basis of assessment). It would be a dangerous oversimplification to assume that a tax on capital values arising in real property is a sufficiently clear statement of the tax base or that a capital gain is a clear basis of assessment. Therefore, it becomes imperative that the potential interpretations of these terms be clearly understood. In this article, the use of a capital tax intended to affect speculation in real property is examined. As the Province of Ontario has instituted such a tax scheme, their statute will be used as a detailed example of the application of this form of taxation. This is not intended to suggest that the Ontario legislation is either the best or the worst example, but that it provides a useful framework for detailed analysis. In order to fully explore the effects of such taxes, it is essential to understand the operation of property markets, and the effects of speculative activities in these markets.<sup>5</sup>

## Speculation and real property markets

Speculation is a process that occurs in almost any market which is subject to uncertainty, imperfections, or capital appreciation. Economists consider speculation to serve a useful purpose in that it can lead to a better allocation of resources over time. This is generally true for speculation in commodities such as wheat, minerals, lumber, and speculation in these markets is rarely criticized by the general public. The profit-seeking action of speculators tends to create equilibrium patterns of price over time and space. When a commodity has different prices at different times (or at the same time in different areas), the opportunity for profit exists providing that the costs of holding for later sale (or of transferring it for immediate sale) can be estimated with reasonable accuracy, and providing that the (current) costs are not so high as to discourage an individual from committing current funds to its purchase. In commodity markets, speculators operate by taking advantage of spatial and temporal price differences existing between markets for given commodities, by buying at low prices and selling at the higher prices, thereby making a profit for themselves — and, at the same time, tending to equalize the prevailing prices. As a general rule, speculators do not buy commod-

ities primarily with the intent of using them in the usual sense; rather, they are motivated by the expectation of existing price differentials or future price increases. To the extent that the speculators can accurately forecast the future scarcity of a commodity, their action can result in stabilization of foreseeable price fluctuations over a given time period. By buying commodities in one period for release in a future period, speculators cause (1) a withdrawal of present supply, (2) a temporary increase in present price, (3) an increase in amount stored, (4) an increase in future supply, and (5) a reduction in future price — the end result being a relative stabilization of price and consumption over time. Thus, in the commodity market, speculators perform a socially beneficial function.

The actions of a single speculator in a particular commodity market will not significantly affect the market price unless either demand or supply is severely restricted. If the market price is definitely influenced by the decision of one speculator to buy or sell, the question of oligopoly becomes more important than that of speculation. On the other hand, whenever there are large numbers of speculators in a given market, competition among them will effectively reduce individual gains, and permit none to make excessive profits over the costs they incur. Thus, although speculators in general have a poor public image, economists have long recognized the important role they have in an efficient price system. However, the life of a speculator is not an easy one. No guarantee exists that the speculator will earn any profit and the risk of loss is substantial.

The discussion on speculation in general commodity markets points out the value to the economy of speculation in particular markets. What is stated is generally applicable to any product or resource characterized as having a fluctuating supply. Speculative activity in real property, however, is a poorly understood and controversial subject. Because real property is not identical to other commodities, speculative behaviour has different consequences. Real property is unique in that it is durable and immobile. This results in real property markets being local markets, with no movement of supply between markets. Further, the supply of available real property is the net cumulation of all of the building activity which has taken place in the history of the community. This stock of units, therefore, is almost entirely comprised of existing units (approximate 97 percent of the total units). New units, during any year, seldom make up more than 3 percent of the total stock. It is the total demand for this fixed stock which sets the prevailing level of prices within the region market — not the historical costs of constructing the old units nor the costs of producing new units. This is in contrast to most other commodities whose inventories are very small, and where current market prices are determined by demand, the current costs of production, and the rate at which newly produced goods flow into the market.

Contrary to popular belief, inflation in the costs of production of new units of real property does not determine the current market value of units of real property — rather it affects the rate at which new units are added to the inventory at prevailing market prices. As these new units will form only a very small portion of available stock, changes in the rate of additions of new units will have only a minor effect on current prices. Only over the long run can changes in costs of production affect prices of property. For example, any factor which results in a slowdown in the rate of new construction will not have any significant short

run effect, but results in a slower rate of expansion of the stock over a number of years. Given the same level of demand in a future period, prices will be higher than would have occurred with a larger stock.

More specifically, land prices do not affect current prices for real property. The price of land is a residual price, determined by subtracting costs of building and development from the market price for usable, improved real estate. In an unconstrained market, this residual pricing ensures that, over the long run, land development occurs at the pace which ensures an efficient allocation of scarce resources to meet society's demands for real property. Any factor which affects this residual may, in the short run, alter the rate of development. In the long run, however, such changes will not substantially alter the size of the stock of usable real property. The basic determinant of prices, therefore, is the level of final demand, which stems from the general prosperity and level of incomes in the community. For example, rapid appreciation in average income in a region, and in the country as a whole, has resulted in rapidly expanding demand for housing and has led to rapid increases in housing prices. These prices led, in turn, to appreciation in the price of land and in the rate of housing starts.

In such circumstances, speculation does **not** alter the supply of existing dwelling units. Speculation in usable real property relates only to the ownership issue, not the use or valuation of the property. Since the flow of services from real property are seldom interrupted or withdrawn by speculators, the social problems often associated with speculation in other commodities are not relevant in the case of property. Generally, speculators attempt to use the property to its fullest short term potential, thereby deriving current income while awaiting some change in the market conditions which affect their property.

What is speculation?

As a starting point in a discussion of policy relating to speculation, the speculator or speculative element in the market for real property must be identified. Property speculation may be broadly defined as the holding of real property in its present state pending an expected increase in capital value. The present state of condition may be: (a) undeveloped (predevelopment), (b) underdeveloped or (c) fully developed. Under this definition, almost any owner might be classified as a real property speculator. Examples of (a) include the long-time resident farmer whose holdings border on the urban fringe, the development company operating a land bank, and the 'opportunistic' moving into the path of urban development. These may be collectively viewed as speculators. Examples of (b) may include the slum landlord, the owner of a single family house in a predominantly apartment area, or the owner of a ground level parking lot in the central core where the present land use may be sub-optimal from the point of view of society but optimal from the point of view of the market. Examples of third category (c) include any owner of property which is presently in its highest and best use, such as an owner-occupier of a single-family house or a tenant on a long term lease. In these cases the owners may benefit from a general price rise or from change affecting their property directly. Hence, they buy at low prices and sell at a higher price, similar in every respect to other speculators.

A point to note is that while each of the above-mentioned owners may be motivated by entirely different rea-

sons, from an economic point of view their motivation is irrelevant. What is important is the impact such individual decisions have on the market. Therefore, to condemn 'speculators' presupposes they can be identified and such is not the case. Obviously there are, at the extreme, cases where individual speculative activities are clearly visible, but these cases do not include all speculative activities in the market, and generally exclude those in categories (b) and (c).

This further relates to the question of possible monopolistic (or oligopolistic) influence of speculators. The ownership of property, both rural and urban, is widely dispersed in Canada. If it were not so, and ownership of usable real property (not simply undeveloped land) were concentrated among relatively few persons, the result would definitely be an oligopolistic market and generally lead to inefficient allocation. To the extent that the location of land is fixed, as well as the fact that no one unit of space is identical with any other in terms of physical characteristics, the owner of a particular site can exercise some discretion as to his selling date but an owner cannot directly influence the price. In the first place, although property is bound by its physical location, in the economic sense property is mobile to the extent that it can move from one use to another depending upon the price that each use is willing to pay for it. The second point concerns the degree of land substitutability — not the resource itself, but of various units or sites of land. It is generally accepted that no individual owns so much property that there are not alternative sites, owned by others, available for use and which represent reasonable substitutes.

## The Ontario Land Speculation Tax Act<sup>6</sup>

On April 9, 1974 the Province of Ontario introduced the Ontario Land Speculation Tax Act (LSTA). Over the past two years, in response to criticisms of provisions of the Act and certain administrative difficulties, the LSTA has been greatly adhered to through amendments and changes in regulations. Significant changes are noted in the text and footnotes.

In justifying the introduction of the LSTA, the Minister of Revenue outlined the government's position:

In the case of Land Speculation Tax, our problem was twofold: Firstly how to focus the taxing effect on speculation without prejudice to normal transfers to property ownership; and secondly how to ensure that the tax would be broad enough to capture speculation in whatever form it might be camouflaged.

I would emphasize that the whole basis of the legislation is to be fair and reasonable and to focus the taxing effect on transactions where increases in sales prices are realized without any real contribution of added value. I would, in fact, say that this element of added value between transactions is the keystone of the legislation since it is this factor which distinguishes conventional transfers of property ownership from speculative activity.

I am proposing a new tax to discourage speculative activity. This tax has two objectives:

- (1) to reduce the escalation of land and housing prices
- (2) to recover for the public a major share of windfall gains from land speculation.<sup>7</sup>



The Ontario position is to focus the taxing effect on transactions where increases in value are realized without any 'real contribution of added value'. This immediately identifies some of the major issues in enacting a tax of this nature. The first obvious problem is to define speculation, which, is not an easy task. Once speculation or speculative activities are defined, the second problem is to define the tax base, which in Ontario cases will be all transactions involving speculative activities. In an effort to define speculative activities warranting a special tax, the Minister made reference to an 'added value' test; however, it will become clear that this is not rigorously applied in Ontario. The LSTA contains numerous illustrations where no 'value added' exists and yet the transfer is exempt of the tax. One of the major problems in coping with speculation is that one cannot impute motives to the observed market activities. As a result, any attempt to tax speculation must be based on observed behaviour, not motives. Hence, by the text of 'value added', the owner-occupier of a house is as much of a speculator as the owner of raw land. The difficulties of applying this 'value added' test will become obvious as the Act is examined.

#### Tax Base

In keeping with the tone of this quote from the Minister of Revenue of Ontario, the tax base for the land speculation tax in the province is set out in an all encompassing manner:

Section 2(1) Subject to section 4, where, after the 9th day of April 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 20 percent of the taxable value of designated land with respect to which such disposition occurs.

Parenthically, the Act originally specified a 50 percent tax rate, but the rate was dropped to 20 percent to avoid an effective tax rate of 100 percent when applied in conjunction with the federal government's capital gains tax. At the present time the federal government does not recognize the amount paid for the Ontario land speculation tax as a deduction for income tax purposes. As a result, at the 50 percent rate, certain vendors could have faced a combined federal and provincial tax in excess of 100 percent of the gross capital gain. The federal government will not relent on their position since to do so would be to invite every province to establish a similar tax on real property (and possibly on certain forms of personal property) and thereby substantially erode the federal tax base. In order for the combined tax rate to be less than 100 percent, the province had to amend the LSTA and reduce its tax rate.

After April 9, 1974, a tax of 20 percent of taxable value is levied on any **disposition of designated land**, subject to the **exemptions** specified in the Act and subsequent bulletins. The person making the transfer (the vendor) is liable for the amount of the tax. If the purchaser assumes or extinguishes the tax liability, it is still included in the vendor's proceeds of disposition. In setting out the provisions of the tax scheme, the definitions of the three underlined terms are of great importance. The definition of 'disposi-

tion' covers virtually every form of change in the beneficial interest in real property that may occur. Disposition includes:

- (i) a sale or transfer, however, effected, or any part of the beneficial interest in designated land (including final order for foreclosure and a vesting order);
- (ii) the sale, transfer or assignment of an option providing for the acquisition of land (does not include the granting of an option);
- (iii) the entering into a lease of designated land where, including renewals, the term exceeds fifty years (originally 10 years but extended to 50 by amendment);
- (iv) any change in the entitlement to the beneficial interest in designated land as a result of the death of any person;
- (v) any change in the composition of beneficial interests in any organization without share capital where 50 percent or more of the assets are designated land, where the effect is to change control over the land;
- (vi) the sale or transfer of shares to which attach 50 percent or more of the votes and where 50 percent or more of the assets are designated land;
- (vii) the amalgamation, merger or consolidation of two or more corporations where 50 percent of the assets are designated land and where control changes hands;
- (viii) to prevent the existence of any loopholes, the act further states that "For the purposes of this Act, "disposition" includes any arrangement or ordering in the nature of a disposition, whether by one transaction or a number of transactions effected for the purpose, that in any manner effectively changes the identity of the persons who are entitled in fact or in law to control or derive a profit from designated land or its disposition".

'Designated land' has been defined to mean any form of interest in land except Canadian resource property or a lien or transfer to secure a loan:

All land situated in Ontario and every right, estate, interest, tenement or hereditament existing at law or in equity in, over, to or affecting land or capable of being registered in any registry office in Ontario, fixtures and buildings or structures attached to land but excludes land in Ontario that is, as defined in subsection 15 of Section 66 of the **Income Tax Act** (Canada), "Canadian resource property" or an interest in land solely held as security for some indebtedness.

#### Exemptions

Exemptions to the provisions of the tax scheme are of great importance in the definition of the tax base, and are consequently accorded detailed attention in the Act. Exemptions and reliefs from a tax are provided for a variety

of reasons. The motive may be charitable, administrative convenience, a correction of what would otherwise be an inequitable burden on a particular group of taxpayers, or a desire to influence particular market activity. Although these considerations make it impossible to treat all exemptions and reliefs as if they were alike, a general comment can be made. Any exemption of relief will tend to alter market behaviour, as participants either attempt to become exempt or attempt to maximize relief. As an increasing number of transactions become exempt from the tax, the income or profit recouped for the public will decrease and the impact of the tax on the real property market will diminish.

The LSTA began with an all encompassing tax and then identified specific exemptions. No transfer of land is liable for the tax if the designated land is:

- (a) Disposed of by, or by way of gift to, an organization that is, at the time of disposition, a 'registered Canadian charitable organization' within the meaning of the Income Tax Act, (but not a trust).
- (b) Disposed of by a municipality.
- (c) Disposed as part of winding up or dissolution of a corporation to its shareholders. (Shareholders are liable to the tax upon their disposition of the land).
- (d) The principal residence ordinarily inhabited by the owner (or was within six months prior to disposition), his spouse, children or other dependents, together with up to eleven (originally ten) acres of land subjacent to the residence.
- (e) Not described in (d) and not contiguous thereto, but is used by the vendor or his family for personal recreation and enjoyment and is his principal recreation property including up to 20 acres (excludes transfer to non-resident).
- (f) Disposed of by expropriation or by sale to an agency which has given a notice of intention to expropriate.
- (g) Disposed of to or by the province, a Crown agency, a municipality, the federal government or Ontario Hydro.
- (h) Transferred upon the death of the owner. The adjusted value of the property is 'stepped-up' to the full market value at the time of the owner's death. The tax liability for a subsequent transfer is determined using this new value as the cost of acquisition.
- (i) Transferred within a group of corporations or within a family.
- (j) Formerly the principal residence of a vendor who is a senior citizen. Exemptions from the tax are provided to a senior citizen when he disposes of property which he has ceased to occupy as a principal residence. To qualify the vendor must have resided in the premise for at least five consecutive years immediately prior to moving, be 65 or older at the time he moved out and, at the subsequent time of disposition, have as his principal residence a property which neither he or his wife own. This could be considered an exception to the previously mentioned status of rental accommodation. An individual may claim this exemption only once.

- (k) Predominantly used (at the time of sale, or will be predominantly used by the purchaser) as a tourist resort, for commercial or industrial purposes, other than the rental of apartment suites or principal residence of a lessee, provided the designated land contains buildings or structures, excluding value attributable to subdivision or servicing, equal to 40 percent or more of the proceeds. Until April 1, 1976 no exemption was provided for properties where improvements were below 40 percent. After this date, however, a graduated partial exemption was provided for properties where improvements allowed for between 20 percent and 40 percent of the value of the proceeds of disposition. If the improvements are less than or equal to 20 percent of the proceeds, the full tax rate of 20 percent of adjusted value applies. For each percent above 20 percent of proceeds that is attributable to the value of improvements, the tax rate is reduced by one percent. For example, if improvements account for 31 percent of the proceeds of disposition, the tax rate is nine percent on adjusted value. At the 40 percent improvement level, the tax rate is zero and the transaction is exempt.
- (l) A building or structure that the vendor has constructed or causes to be constructed or renovated at a cost no less than 20 percent of the costs of acquisitions and where the improvements are not less than 40 percent of the total proceeds of disposition. This full exemption was supplemented in April of 1976, with a partial exemption for properties whose improvement value or cost of construction were below the minimum required for a full exemption. These properties will be taxed at the lesser of the full 20 percent rate or the adjusted rate determined by the following formula:

Adjusted rate -

20 percent - (improvements - 20 percent)

(proceeds)

plus

20 percent - 2x (construction costs - 10 percent)

(acquisition costs)

The effective tax rates are indicated in the following table:

|                     |      | Improvements/Proceeds |     |     |     |     |     |
|---------------------|------|-----------------------|-----|-----|-----|-----|-----|
| Constructions Costs |      | 0                     | 20  | 25  | 30  | 35  | 40  |
| Acquisition Costs   | 0    | 20%                   | 20% | 20% | 20% | 20% | 20% |
|                     | 10   | 20%                   | 20% | 20% | 20% | 20% | 20% |
|                     | 12.5 | 20%                   | 20% | 20% | 20% | 20% | 15% |
|                     | 15   | 20%                   | 20% | 20% | 15% | 15% | 10% |
|                     | 17.5 | 20%                   | 20% | 15% | 10% | 10% | 15% |
|                     | 20   | 20%                   | 15% | 10% | 15% | 15% | 0%  |

- (m) Used for farming and has been owned by the vendor for more than ten years. Farmers who have owned designated land for less than ten years can claim a reduction in taxable value of 10 percent of the adjusted value of the property for each year of ownership.
- (n) situated in territory without municipal organization that is not designated as a restricted area.



Several of the exemptions are of a standard variety which one would expect to find in any similar act. Transfers to charitable organizations, principal residence, and farm land are always favorite exemptions from most forms of taxation. Moreover, the exemption of lands used for industrial, or commercial activities with improvements exceeding 40 percent is merely a recognition that these types of transfers are necessary for an efficient market and should not be classified as speculative. The need to precisely estimate the 40 percent estimate ratio will also create increased valuation difficulties for appraisers. In an effort to exclude bona fide developers, an exemption is granted providing renovations or new construction exceed 20 percent of the cost of acquisition and that total improvements exceed 40 percent of the cost of disposition. Hence, for new development, construction costs would have to exceed 40 percent of the cost of disposition to obtain full exemption.

Perhaps the most difficult exemptions to justify are the 11 and 20 acres permitted with a principal residence and principal recreation property, and the exemption from taxation of the property transferred to the Crown. To permit land of 11 or 20 acres to escape the tax is an invitation to maintain these holdings and encourages a possible misuse of land. The exemption afforded on transfers to the Crown cannot be justified on any grounds. There is no reason for establishing a two price system in favour of the Crown.<sup>8</sup>

Further exemptions of particular interest to the real estate industry are provided within the Ontario act:

- (a) Rental Housing: Rental housing may receive tax relief in the form of a tax reduction and the possibility of an eventual exemption, if the residential rental property contains buildings valued in excess of 40 percent of the fair market value. In these cases, the transferor may claim a reduction of one-tenth of the taxable value of the disposition for each full year that the property has been held. In other words, the owner of a residential rental property who holds it for 10 years would be exempted from all of the speculative tax. This section will have the effect of looking investors at the margin who would find the impact of the tax relief to be of some significance, especially coupled with the present capital cost allowance recovery tax provision. The 40 percent requirement to obtain exemption was supplemented in April, 1976 with a partial exemption for properties where the value of buildings is less than 40 percent of fair market value. A percentage reduction in taxable value of such property as calculated above may be claimed according to the following formula:

$$\begin{aligned} &\text{Percentage Claim -} \\ &5 \times (\text{value of improvements} - 20 \text{ percent}) \\ &\quad (\text{value of proceeds}) \end{aligned}$$

At 40% — 30% — and 20% ratios, therefore, the permitted reduction in adjusted values are 100 — 50 and 0 percent, respectively. A property which has a 30 percent improvement ratio and which has been owned for five years is eligible for a 25 percent adjusted value deduction (50 percent of 5 x 10 percent).

- (b) Subdivision: Originally the Ontario act allowed a subdivider to sell serviced lots to builders free of the land speculation tax where the builder covenanted to assume the subdivider's liability for the tax and to commence construction on 50 percent of the lots within nine months and the remainder within 18 months. (It is interesting to note that the Act only specified 'commencement' time. No mention is made as to what constitutes 'commencement' nor is there a completion requirement)<sup>9</sup> This section has been substantially amended and exempts designated land which has, at the expense of the transferor, been subdivided and serviced to the point where a building permit could be obtained if the land is included in a registered subdivision plan for which a consent under the Planning Act has been obtained or abuts on land owned by the transferor for which such consent has been obtained.
- (c) A final provision is made that the Lieutenant Governor in Council may 'exempt any designated lands' by regulation.

The position taken in Ontario is to define the tax base as any transfer of an interest in land except for the specified exemptions. It should be noted that the tax base is defined in some considerable detail to avoid ambiguity and also to prevent landowners from avoiding the tax through hidden transfers. The selection of transfers as a tax base is in part a matter of convenience in that it avoids many valuation problems which would occur using appraisals of properties owned, but not sold, as a tax base.

#### Basis of Assessment

Subject to any exemptions or reliefs, the extent of an owner's liability is dependent on the basis of assessment which determines the taxable value of the interest being transferred. Several obvious choices as to the basis of assessment can be made, given the tax base is defined in terms of transactions in real property. The basis of assessment may be the sales price, some definition of capital gain (as is the case for income tax), or of an unearned increment or development value (as is the case in Great Britain). Obviously the choice of a basis of assessment further influences the reaction of the market to the tax. For the LSTA, the basis of assessment is defined in terms of capital gains, similar to the Income Tax Act.

The term "taxable value" is defined as the amount by which the proceeds of disposition exceed the adjusted value at the time of disposition and is computed separately for each disposal of real property. The term 'adjusted value' is defined in a long and complex manner. In summary form, adjusted value is the aggregate of:

- (i) the cost of acquisition (the cost of its acquisition or fair market value if acquired after April 9, 1974; if acquired before April 9, 1974; the higher of its fair market value on April 9, 1974 or its cost of acquisition).
- (ii) the cost of improvements (costs of a capital nature for the purposes of income taxation, including

subdivision, servicing, and major structural repairs, but excluding costs incurred to maintain the property in its existing condition) made after April 9, 1974;

- (iii) net maintenance costs (including interest and property taxes minus income) up to an equivalent of 10 percent per annum of the acquisition cost as defined in (c);
- (iv) costs of disposition including legal fees and disbursements, real estate commissions and costs of valuation made to determine the speculation liability, but excluding taxes payable as the result of disposition.

A simple illustration may help to clarify the meaning of these definitions. Assume the property is held for two years after April 9, 1974.

1. Cost of Acquisition = \$100,000 plus
  2. Cost of Improvements (after April 9) = 9,000 plus
  3. The lessor of:
    - (a) 10 percent per annum on item (1) for two years (\$20,000) or
    - (b) Net maintenance cost plus disposal costs (incurred after April 9, 1974) (\$10,000) Allowable) = 10,000 plus
  4. Disposition costs = 4,000
- Adjusted value 123,000  
The final tax calculation would be based upon the difference between \$123,000 and the proceeds of the sale two years after April 9, 1974.

In interpreting costs for the purpose of determining taxable value, the Minister of Revenue in Ontario has provided a number of guidelines by way of interpretations and rulings.

- (a) Cost of acquisition of designated land comprises all costs that are reasonable to acquire land including legal fees and disbursements paid by the transferor.<sup>10</sup>
- (b) Net maintenance cost does not include any costs which are costs of acquiring, improving or disposing of designated land but does include the actual amounts paid by the transferor for labour and material required to maintain the property. If the transferor's own labour is used, 'reasonable' costs may be calculated.<sup>11</sup>
- (c) Costs of disposition comprise all costs that the transferor can reasonably show were necessary including legal fees and disbursements, real estate commissions and costs of an appraisal in order to determine tax liability. In the case of a conversion of an existing building to a condominium or cooperative, disposition costs include any conversion costs incurred for the purpose of disposing.<sup>12</sup>
- (d) Costs of renovation comprise all amounts reasonable for renovation including amounts paid for labour, material, professional fees, fair value of own labour and own material and a reasonable allowance for overhead, where the transferor's chief source of revenue is from the business of renovating buildings. It does not include mortgage repayment, mortgage application fees, mortgage insurance fees, or mortgage bonuses.<sup>13</sup>

## Land Speculation Tax: an analysis

### Introduction

In the previous section, a quote from the Ontario Minister of Revenue expressed two objectives of the LSTA:

- to reduce the escalation of land and housing prices; and
- to recover for the public a major share of windfall gains from land speculation.

In imposing this tax, the Minister emphasized that he did not want the tax to discourage the production of new houses nor the legitimate use of real property — in a productive sense. Here, the Minister has taken a very narrow view of 'productive' which is cross-sectional rather than inter-temporal.

As was noted earlier, these two objectives are of some antiquity in the economic literature on this subject. The desire of planners and politicians to reduce land and housing prices has given rise to numerous schemes to reduce the activities and profits of 'middle-men' in the productive cycle. In particular, there is a common misconception that land prices can directly influence house prices. Contrary to popular mythology, the casual relationship is in the opposite direction: land prices are high because house prices are high. Hence, any action that would result in a reduction of land prices will not lead to an immediate reduction in the price of houses (or other developed land use).

The second proposition is that profits arising from land transactions should accrue, in total or in part, to the public. This proposition rests on the notion that much of the increase in land values arises because of public expenditures and/or public decisions affecting land uses.<sup>14</sup> While there is some justification for the recoupment of a portion of property profits for the public, it is possible to extend this argument to include profits arising in many areas which benefit from public expenditures and public decisions. There is no unique reason to single out property profits for a special tax although historically this has been done. Moreover, the manner in which most land tax schemes are established permits a number of land use categories to escape a tax designed to recoup gains for the public. Hence, not only is property singled out for special tax treatment, only certain types of property are taxed. The inequities in these types of taxing systems are difficult to justify.<sup>15</sup>

It is obvious that the Ontario tax scheme is directed mainly towards the possible impact on market value rather than the profit recoupment aspects. The revenue from this tax has been well below that initially anticipated and is never likely to be significant since most property owners may avoid the tax. The important question remains: to what extent will the speculation tax reduce speculation and property prices without affecting land development?

### An Analysis Of The Application Of The Tax

The LSTA is intended to apply principally to transactions involving 'non-productive' land uses. It is convenient to assume that the tax will not affect legitimate land developers or legitimate land users (i.e. commercial/industrial), and is directed primarily to unproductive activity in undeveloped or underdeveloped lands. Using this simplifying assumption, which will be examined later, it is possible to analyze the impact of the introduction of the tax and trace it through the market.

To evaluate the effect of the introduction of a tax on the rate of land development consider a simple example in



which no speculation land tax is levied. Development will occur as developers respond to market prices and the cost of development. In this context, developers will bid for raw land on the basis of the residual left after all costs (including the builders' expected profits) are subtracted from the prevailing market price for the finished commodity. The land seller will make the decision to sell now or hold onto the property and sell in the future, evaluating the alternatives according to a discounted cash flow analysis and comparing the results to the proceeds that could be realized:

#### 1) Discounted Cash Flow Analysis

$$NPV = \sum \frac{(\text{Revenue} - \text{Costs})}{(1 + i)^{-t}} +$$

$$\frac{(\text{Sales Price} - \text{Transfer Costs})}{(1 + i)^{-n}}$$

WHERE NPV = net present value of the investment; n = length of time expected for ownership; Revenue = periodic revenue during the holding period; Costs = periodic costs during the holding period; Sales Price = transaction price at time of disposition; Transfer Costs = costs of disposition.

#### 2) Current Sales Proceeds

Net Price = Current Sales Price - Transfer Costs

If the net proceeds from current bids were greater than the expected net present value of holding, the land holder should sell.

Now consider the introduction of a tax on the proceeds of the sale. First, such a tax will not effect the bid prices offered by developers in the current period: It merely increases the transfer costs, thereby reducing the proceeds from a current sale. It will have a similar effect on any disposition in the future. The landholder at the time the tax was imposed, therefore, must pay the tax when the sale takes place. The periodic revenue and holding costs will not be reduced as result of the tax. New land investors will, when undertaking their investment decisions, include the tax payment and will consequently reduce their current bids (as eventual sales prices will be the same for pre-tax and post-tax purchasers) to maintain competitors' yields with alternative non-land investments. Their current bids, in all likelihood will be below developers' bids. Pre-tax landowners, therefore, cannot avoid the tax and must decide when to sell solely on their anticipation of future trends in developers' bids. These bid prices are determined as a residual from the cost of development and the current market price as determined by the interaction of the demand for and quantity of the available supply. As was earlier stated, the available supply is largely comprised of existing stock (97-98 percent), and the curtailment or acceleration of new production will have little impact on current price levels. Developers will bid for land as it is needed and at the prices they can afford to pay.

Hence, except in minor cases of poorly informed investors, the tax will not have any marked effect on the production process: the post-tax situation will be comprised of almost exactly the same developed stock, the same demand for the stock, the same level of developed property values, and the same demand prices for land with development

potential as would have been obtained without the tax. The insignificance of the impact would be compounded if there are any ways of avoiding the tax — as in the case of exemption to landowners who contribute to the capital value of their land before disposition. At the time landowners perceive that land is 'ripe' they will merely enter into an agreement with a builder, develop their property, and take their untaxed raw acreage prices as the residual of market price for finished property minus development costs (including builders' profits). There may be, however, some short run effects as the market adjusts to the new tax situation. At the time the tax was introduced, the landowners had established a set of expectations based upon forecasted development patterns. Landowners envisaged some expected after-tax rate of return which, with the introduction of the land speculation tax, will now be reduced. The immediate reaction of landowners, in the past-tax period, will be to increase their asking price for the land held. However, unless something else happens in the market (e.g. change in final demand, change in alternative investment opportunities), purchasers of this land will not increase their bid prices.

Given that the realized after-tax yields will be reduced for those people holding land at the time the tax is introduced, less land may be offered for sale. Since the tax is only collected on transfer, a property owner may defer the tax by electing not to sell. To be individual landowners, the decision either to sell, pay the tax and realize a lower after-tax yield or to withhold the land from the market will depend upon alternative investment opportunities. Since this tax is selective, applying only to real property markets, property owners may find more attractive alternatives outside this market, or in other provinces which do not have such taxes. While it is obvious some owners will be induced to sell, it is equally obvious that some will elect to withhold their land from the market awaiting a price increase. Because of the effect of exemptions which might be achieved through development, the majority may elect to sell through a 'shadow sale' (i.e. landowner becomes a builder). Therefore, in the immediate term, the supply of land for development or redevelopment may not decrease. However, once this supply is exhausted, the quantum of land coming forward from owners who cannot avoid the tax may possibly be reduced. However, the general conclusion on the effect of this tax coupled with this particular exemption, will be on the organization of the land development industry and no noticeable change in the rate of development or the price will occur.

Property purchasers will also react to the introduction of this tax (just as the pre-tax property owners have done). If the purchasers plans develop (sufficient to meet the requirements of the act) on the land purchased, his bid prices will not be affected by the tax. Nothing has changed in respect to the final product (i.e., shelter) and therefore, the bid prices from builders and developers will not change. Purchasers who planned to invest in land without (qualifying) improvements or development will likely reduce their bid prices for land to such an extent as to provide the desired after-tax yield. However, given developers and builders will not be changing their bid prices, these bids will establish a floor price for land and purchasers who planned to buy land simply as investment will be required to match the prices offered by developers. Hence it is unlikely that land prices will fall.

In summary, then, the price of land will not change appreciably in the short run. Over an extended period of time, if development is thwarted by a curtailment in land supply offered in the market and given the same level of demand in the market, shelter prices will increase and correspondingly, developers' bid prices for land will increase. This curtailment is not likely to occur, for the reasons pointed out above.

The preceding discussion relates to an (assumed) general speculation tax on land, an assumption which is obviously an oversimplification. The LSTA is not limited to land, rather it is a tax on all real property in the province except that which is specifically exempt. To the extent that the tax applies to various improvements, the conclusions reached in respect of the tax on land must be modified. In the next section specific items in the Ontario cases are examined to determine whether the tax on improved property will adversely affect the operation of the market. It should be noted that these problems arise because of the inadequacies in the definition of a speculation and the difficulties in identifying speculators' activities.

### Specific Problem Areas In The LSTA

In addition to the general impact outlined in the previous section of this report, a number of specific problems are apparent in the Ontario tax scheme. Since these problems are common to many jurisdictions where a tax of this nature may apply, it is important to identify them and suggest alternative solutions. Given that the intention of the LSTA is to tax speculation but exempt productive activities, these specific problem areas should be amended.<sup>16</sup>

(i) Maintenance Allowance. In calculating the tax liability on a taxable transfer, a transferor is permitted to deduct actual maintenance costs up to a maximum of 10 percent of the cost of acquisition, for each year the property is owned after April 9, 1974. This provision is obviously intended to encourage the maintenance of the standing of properties, a necessary corollary to the introduction of the speculation tax. While this provision is highly desirable, and is in fact, necessary to prevent waste in the stock, the provision appears too restrictive. Two problems exist with the current provision. First, the act establishes a per annum maximum of ten percent, or if it is less, the actual net maintenance costs. The limit of ten percent is an arbitrary figure which will not have uniform impact throughout the market. For example, a new building awaiting full occupancy may have net maintenance costs greatly in excess of ten percent for the first one or two years while an existing building is less likely to have net maintenance in excess of ten percent. Second, the act does not provide for averaging of net maintenance costs. Therefore, the amount of the cost in excess of ten percent (i.e., a major repair which occurs every five or more years) will not be allowed although the expenditure may be desirable or perhaps mandatory for health or safety reasons.

As a minimum amendment, some provisions should be made to permit owners to exceed, for the first few years, the ten percent ceiling in cases of new developments in order not to discourage new development. In addition, provisions should be made to average actual net maintenance costs in those cases where they exceed

ten percent. This is simply a recognition of a category of periodic major repairs which can occur in any property.

(ii) Apartment Rule. The categories of exemptions specifically exclude rental of apartment suites and provide for special tax treatment of these properties. Investment properties in this category are permitted a relief of three-tenths of the tax if the property is held for three years plus a further one-tenth for every additional year. The transferor would be required therefore, to hold the property for ten years to completely escape the tax. There is no reason to single out this specific category of land use for such tax treatment. One can only guess that the government was motivated by a concern regarding the turnover in this type of property. The impact of this special tax status combined with income tax provisions and rent control are, however, likely to have the combined effect of discouraging further investment in this area. A further impact of these provisions is to lock-in existing investors while at the same time causing potential new investors to shift funds into other property categories or other provinces. At a time when rental accommodation ought to be encouraged, this situation appears most regrettable. Obviously, investment funds must be encouraged to enter the rental market category, but the tax liability makes it relatively less attractive than other commercial or industrial properties.

While this provision does not discourage the construction of apartment buildings, the transfer of which is tax exempt (providing the new development or renovation, completed by the transferor, exceeds 40 percent of the proceeds of disposition), it will tend to dampen prices of new and existing apartment buildings to the extent that some investors are discouraged by the tax provisions.

(iii) Improvement Limits. The original provisions of the LSTA provided exemption from the tax for transactions involving property where the value of the improvements were greater than or equal to 40 percent of the proceeds of disposition. This arbitrary limit created a significant distortion in the market. The graduated partial exemption for transactions where improvements are between 20 percent and 40 percent of value introduced two years after the LSTA, provides some relief for properties in this range.

By implication, transfers of real property where the ratio is below 40 percent are considered speculative in nature, therefore, undesirable and subject to taxation. Again, an arbitrary figure of this nature is apt to subject some transfers to taxation which should be exempt. Similarly, the provision is apt to discourage normal market transactions in any class of property where improvements fall below this level.

Obviously, the 40 percent minimum and the corresponding 20 percent limitation on new improvements are estimates, based on value judgements, which are designed to separate productive land uses from the less productive activities in underdeveloped properties. There is no 'correct' improvement ratio in the sense it is used in this act but it should be noted that any property with improvement: market value ratios under the established level will be less likely to be sold because of the tax statutes.



The amendments granting partial exemptions acknowledge the fact that speculation is difficult to isolate. In this case, the value of the improvements on a property is used to determine whether the vendor was also a speculator. Although the amendments have improved the LSTA (and made it much more complex) fully or partially exempting some of the transactions which are necessary to ensure efficient market operations, there are still several problems created by the Act. It would seem to be both more efficient and equitable to understand the processes which give rise to condition, that may be considered problems (eg. rapidly rising prices) and draught legislation accordingly, than to simply pass laws attempting to eliminate market participants (speculators) and then have to greatly alter the legislation in an attempt to make it work. □

## FOOTNOTES

1. Since 1963 there have been six provincial commissions of enquiry which have been concerned to a significant degree with real property taxation. In every case, the continued use of a real property tax system to finance local governments was recommended.
2. Capital gains arising in a transfer of real property are taxed as either ordinary income, in the case of businesses involved in property development, or as capital gain, in the case of investors. In Canada the different classifications of income are important since only one-half of any capital gain is taxed whereas all income is taxed, subject to exemptions as provided in the Income Tax Act.
3. An excellent contemporary statement of this issue can be found in: Expert Committee on Compensation and Betterment Report, 1942 (Cmnd. 6386) H.M.S.O. London. The origins of this proposition may be found in: John Stuart Mills, *Principles of Political Economy*, Book V and Henry George, *Progress and Poverty*, (new condensed version by Hogarth Press Ltd., London, 1953).
4. Hamilton, S.W. and David Baxter, 'Alien and Non-Resident Land Ownership', A.I.M., 20:1, pp. 20 en. seq.
5. This topic is more fully discussed in Baxter, David and S.W. Hamilton, 'Speculation and Real Property Markets', A.I.M., 19:2, pp. 86-96.
6. In 1974 the Ontario Government introduced a discriminatory tax on transfers to aliens and a new tax on land speculators. The discriminatory tax on alien land purchasers is contained in the **Land Transfer Tax Act**, R.S.O. 1974 (Bill 26) and the tax on speculation is contained in **An Act to Impose a Tax on Land in Respect of Certain Dispositions Affecting the Control or Ownership of Land**, R.S.O., 1974 (Bill 25) hereafter called the Land Speculation Tax Act (LSTA).
7. An address by the Honourable Arthur Meen, Minister of Revenue, to Ontario Real Estate Association, October 2, 1974, Province of Ontario, Queen's Printer. The reference is to the Ontario Land Speculation Tax.  
The Ontario act further provides for a special tax of 20 percent in the case of a transfer of control of a corporation principally involved in real property.  
"Where there is a disposition within the meaning of subclause vi or vii of clause d of subsection 1 of Section 1 (corporation sale, transfer, merger, consolidation, etc.) where 50 percent of assets are designated lands and voting control changes of any designated land and the result of the disposition is that control the corporation beneficially interested in the designated land is exercisable by a person or group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed. . . a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition and computed at the rate of 20 percent of the proceeds of disposition where the corporation beneficially interested is. . . a non-resident corporation as defined in the Land Transfer Tax Act 1974".<sup>12</sup>  
Note that this is in addition on the speculation tax liability.
8. It should be noted that the Crown is also exempt from the speculation tax when it transfers land.
9. Ministry of Revenue Bulletin, No. 16, Land Speculation Tax Act, defines commencement: "That preparation of the site or lot for building has been completed and, where applicable, the excavations for the foundation of the building have been completed". October, 1974.
10. Ministry of Revenue, Bulletin No. 3, Land Speculation Tax Act, LST-3, Sept. 25, 1974, Province of Ontario, Queen's Printer.
11. Ministry of Revenue, Bulletin No. 4, Land Speculation Tax Act, LST-4, Sept. 25, 1974, Province of Ontario, Queen's Printer.
12. Ministry of Revenue, Bulletin No. 5, Land Speculation Tax Act, LST-5, Sept. 25, 1974, Province of Ontario, Queen's Printer.
13. Ibid.
14. This proposition has been manifested in a continuous series of attempts to capture, for the public, a large share of the profits arising in land. In Great Britain, a long series of legislative attempts have been employed to recoup profits for the public. These efforts have fallen under the label of "compensation — betterment levies". The British system extended to an attempt to nationalize all development rights in all undeveloped lands. Similar attempts to recoup gains from property value increases have been employed in New Zealand, Australia and various states in the United States.
15. "We believe that the problem of the morality of profit making in land dealing is a complex one. The introduction of betterment taxes in the hope that the tax will bear on the seller of raw land, in the belief that he has no moral right to the increment in land value is a superficial solution morally, as persons make profit in all sorts of land dealings, even under leaseholdings". **Government and the Land**, F. G. Pennance, Editor, (London, The Institute of Economic Affairs, 1972), p. 48.
16. In the original version of the Act very strict rules were applied to subdivisions. The Act allowed a subdivider to sell serviced lots to builders free of the land speculation tax where the builder covenanted to assume the subdivider's liability for the tax and to commence construction on 50 percent of the lots within nine months and the remainder within 18 months. If the builder fulfilled his covenants to begin construction within the required time, his liability for the subdivider's tax was cancelled and the tax was discharged. In cases of hardship, the times may have been extended. (It is interesting to note that the Act only specified "commencement" time. No mention was made as to what constitute "commencement" nor was there a completion requirement.) These provisions introduced regrettable difficulties and provisions, were amended. For a more detailed discussion of the problems caused by the initial subdivision rules, the reader is referred to the original monograph upon which this article is based.

# HOUSING ALTERNATIVES

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We wish to thank the Ontario Economic Council for granting us permission to use their publication, "Issues and Alternatives 1976 — Housing", as the source for this article [Ed].

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Most of us at some time or another have expressed the view that housing costs too much. Moreover, all levels of government have supported this view. This issue's real estate story examines this aspect of the housing problem and the programs initiated by the various levels of government to help people cope with the high cost of housing.

## The high cost of shelter

For the last several years, the cost of housing has been rising dramatically, even more rapidly than the general price level. This increase has been most dramatic in growing urban areas. In fact, in some Ontario cities, the price of an average house has doubled since 1971. This is in marked contrast to the decade before 1971, during which house prices rose more rapidly than the general price level but less rapidly than personal disposable income. This continuous increase in the high cost of housing is excellently reflected in the following table.

An examination of the Table reveals some startling facts: Mortgages played a large role in the total increase of housing costs — mortgage rates rose from 7% in 1961 to 11¼% in 1974. In 1961, 69% of all Ontario families could finance the purchase of the average Ontario home sold through the Multiple Listing Service and still spend less than one quarter of their gross income for principal and interest payments. This figure had fallen to 58% in 1971 and 29% in 1974. Annual carrying costs increased from \$994 in 1961 to \$4,076 in 1974, while the average downpayment increased from \$2,608 in 1961 to \$12,156 in 1974.

It is extremely difficult to obtain accurate data on historical or current rent levels. However, the data available reveals that the cost of obtaining rental accommodation did

not rise as rapidly as the cost of houses. From 1961 to 1971, the census showed that actual rents paid by persons increased by 75%, compared with a 23% increase in the rent component of the consumer price index.

Since 1971 rents have risen sharply and the rate of increase seems to be accelerating. Rents are so high that they often demand between 50% and 75% of the income of a poor family.

## Who bears the burden?

About one-third of Canadian families do not own their own homes. The likelihood that a family will not own a home increases as income falls. The likelihood is much higher in metropolitan than non-metropolitan areas. The likelihood falls as the age of the head of the family increases.

The price of a house is beyond the means of those with low incomes, therefore their concern is almost exclusively with rent levels. The rapid rise of house prices is of more concern to families with relatively high incomes. Although the poor are clearly the most disadvantaged in today's housing markets, the extent of the housing problem due to high costs is evident when one considers the large number of families with moderate incomes whose expectations of owning a house appear unattainable.

One identifiable component of the 'housing problem' seems to be that, given the incomes of people and the cost of shelter, certain households do not have enough income to purchase what society feels to be a sufficient quantity of housing. Having recognized this, the various government levels designed programs aimed at redistributing income to these households. The combination of these programs which deal with making more accommodation available, providing accommodation below market rates and cash transfers, make up Canada's housing policy.

Government activities are divided into two sections: the first includes programs explicitly related to housing, princi-



pally those administered by the Central Mortgage and Housing Corporation at the federal level and the Ministry of Housing at the provincial level; the second includes other government activities that have a major impact on housing markets.

Government programs

The principal aim of Canadian housing policy immediately after the Second World War and until the 1950's was to expand housing output and in particular, the output of detached housing. The major institutions created and, the programs adopted during that time remain and still form the basic structure of Canadian housing policy.

In 1946 Central Mortgage and Housing Corporation (C.M.H.C.) was created to administer the National Housing Act (N.H.A.) C.M.H.C. is a crown corporation with independent authority to do business with provinces, municipalities, builders and households. Housing program administration and development were removed from the day to day pressures of governments and politics.

Mortgage insurance

In 1954 the *National Housing Act* established a federal loan insurance program. The program has been changed many times. At present, C.M.H.C. determines the criteria for eligibility of borrowers, the length of the amortization period and the maximum size of the loan. Funds are provided by financial institutions and borrowers pay an insurance premium. Mortgages are available to builders to finance new construction of detached and multiple unit housing and are available to households to finance the purchase of an existing house. Under the program, the supply of loanable mortgage funds increased. This occurred because the program established an insurance system with a lower premium than obtainable in the private sector. This made institutions more willing to make mortgage loans

because of the reduction in the risk of mortgage investment losses. In addition, mortgage interest rates fell and there was an improvement in the terms of mortgages.

The program also has an effect on the rental market in the long run. When builders consider whether to construct an apartment, their interest costs are reduced. Most of the money used to build apartments is borrowed and so the reduction in the interest rate increases a builder's rate of return. As a result more apartments are built and there is a tendency of rental rates to fall.

In both the ownership and rental markets, as a consequence of the increase in the flow of mortgage funds, the program led to an increase in the supply of housing.

Residual lending

The NHA also contains a program which provides loans of government funds to builders who cannot secure financing from the private sector. The rationale for making this extra money available was to provide more housing than would result from the normal operations of the market, and to increase the number of homeowners. The lending is designed to be residual – to provide mortgage funds in addition to those available from private financial institutions. The program led to increases in the stock of single detached and rental buildings, and enabled many families to purchase a home.

However, although these programs did lead to an increase in the supply of housing, they benefitted primarily middle income families – rental accommodation and NHA financed houses were out of reach of the poor.

To deal with this, several important amendments were made to the *National Housing Act* in 1964. The major programs adopted reflected an increased concern with achieving equity. The programs were designed to provide housing for specific groups and specifically, low income families and elderly persons. They were explicitly designed to redistribute income. The earlier programs which dealt primarily

TABLE 1  
House Prices, Carrying Costs, and Incomes

| Year | Average Price of Transactions under M.L.S. Ontario <sup>1</sup> | Average Downpayment <sup>2</sup> | Conventional Mortgage Interest Rate <sup>3</sup> | Annual Carrying Costs | Percentage of Ontario Families For Whom Annual Carrying Costs would be less than 25 percent of gross income <sup>4</sup> |
|------|-----------------------------------------------------------------|----------------------------------|--------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------|
| 1961 | 14,487                                                          | 2,608                            | 7                                                | 994                   | 69                                                                                                                       |
| 1967 | 21,285                                                          | 4,896                            | 7 3/8                                            | 1,419                 | 69                                                                                                                       |
| 1971 | 27,502                                                          | 5,500                            | 9 1/2                                            | 2,075                 | 58                                                                                                                       |
| 1974 | 46,752                                                          | 12,156                           | 11 1/4                                           | 4,076                 | 29 <sup>5</sup>                                                                                                          |

1. Source: *Dollar Volumes of M.L.S. Activity*, Canadian Real Estate Board.  
2. Assuming the downpayment ratio was the same as that of homes sold under N.H.A. financing, *Canadian Housing Statistics*, various years.  
3. Source: *Canadian Housing Statistics*, various years.  
4. Income distributions found in *Census*, 1961, 1971; *Family Incomes, Census Families*, 13-538, Statistics Canada, 1967, *Family Incomes, Census Families* 13-208, 1973.  
5. The 1974 income distribution was calculated assuming all family incomes had grown at the same rate as nominal per capital income between 1973 and 1974.

with increasing the total output of housing units were continued.

Parallel to these new redistributive programs was the entry of the provinces into the housing field. The Ontario Housing Corporation (O.H.C.) — now part of the Ministry of Housing — was formed in 1964. The programs adopted after 1964 fall into two main groups — those in the first group are designed to assist persons to obtain rental accommodation, a number of them are specifically intended to meet the housing needs of those on very low incomes, to provide housing at below market rents, rather than directly increasing the incomes of these households. The program in the second group are designed to assist households to own their own homes.

## Low income rental housing

### Public housing

The Rent-Geared-to-Income Housing Program — more commonly known as “public housing” is the major program directed toward low income households. CMHC provides loans to a province for 90 percent of the capital cost of a building. The provincial housing agency provides a loan for 10 percent of the cost, selects the site, calls for tenders, contracts for the construction; it usually manages the building, although in some instances a local housing authority will be responsible for building management. If tenants earn over \$4,800 a year they are charged a rental set at 25 percent of their gross income; the percentage falls as the income of the tenant declines. The difference between the amount of the rental payments and that needed to manage the building and amortize the loan is covered by a subsidy. The federal government provides 50 percent of this subsidy, the province 42½ percent and the municipality 7½ percent. The initiation of a project must be by a municipality. Units are available to low income families with children under one section of this program, and to senior citizens under another.

Until a few years ago, this program supplied the bulk of the low income rental housing which resulted from public sector activity. Severe criticism, due to the social stigma attached to public housing, bad management, and the distance of these units from employment opportunities, led to a sharp decline in construction.

### Rental supplements

Alternative programs were then introduced by the Ontario government to meet these criticisms. There are three major programs. Under the Rent Supplement Program, private landlords agree to make up to 25 percent of their units available to tenants from the waiting lists for public housing. Under the Community Integrated Housing Program, OHC supplies second mortgage financing to a builder if up to one quarter of the units are supplied to tenants receiving rent supplements. The Accelerated Family Rental Housing program provides favourable first mortgage financing from OHC in return for up to 25 percent of the units being made available under the rent supplement system, and the remainder of the units being available to tenants with specified moderate incomes. The rents charged and the overall rate of return on the project are subject to certain controls. In all these programs the difference between market rents and rents actually paid by tenants is contributed by federal, provincial and local levels.

These programs, however, assist only 9% of the low income families who are eligible for assistance. Moreover, these households become restricted in their choice of housing since they can only receive subsidization from the government if they live in certain buildings.

## Moderate income rental programs

### Limited Dividend Housing

The CMHC Limited Dividend Housing Program, has existed since 1938, it only began to be used in a substantial way after 1967. The program supplies high ratio loans at favourable interest rates for the construction of buildings whose rents will be controlled. The high ratio loan means that a builder needs little of his own money to embark on a project and the favourable mortgage rate reduces one component of the cost of the project. The rents of the building are at a level that will permit only a specified return on the investment. Households within certain income ranges are eligible. Loan approvals have been on the decline since 1970. The program has now almost completely stopped and is being replaced by the Assisted Rental Program.

### Non-profit and cooperative housing

This program provides a similar arrangement for private or municipal non-profit organizations and cooperatives. High ratio loans, part of which may be forgiven, are available. Rental increases must be approved by CMHC.

The main objective of these programs seems to be to redistribute income. Housing is produced which rents for only slightly below comparable privately financed projects. This housing is accessible only to moderate income households.

### Rent Control

Rent controls were introduced in Ontario in 1975 to slow the rate of the increase in rents. The program has met with controversy since its inception. A ceiling of 8% has been placed on rent increases.

### Home Ownership programs

To help persons cope with the rising house prices in the late 1960's, governments adopted the approach to subsidize households with specific income ranges and to encourage the construction of housing built to sell within given price ranges. The programs transfer income and stimulate the supply of certain types of housing. Some of the subsidies are now available to more than half of the population. The principal beneficiaries of these programs are middle-income families.

### H.O.M.E. Plan

The Home Ownership Made Easy (H.O.M.E.) Plan of the Province of Ontario which was begun in 1967 is the principal provincial program designed to assist home ownership. The Ontario Housing Corporation acquires land and allocates it to builders. Builders construct basic houses, with few frills, and sell them directly to households at prices that had previously been agreed to by O.H.C. Purchasers can finance the purchase price of the house with a high ratio first mortgage, available at favourable interest rates from the province; a second mortgage, available at favourable interest rates and a 35 year term, covers the market value of the land.



Payments on the second mortgage amortize only the government land acquisition cost. The difference between the market value of the land and the government's acquisition cost must be paid either on sale of the house or at the termination of the 35 year mortgage. In effect, the household is offered attractive terms for financing and undertakes to pay the full market price for both building and land at the time of purchase.

The H.O.M.E. Plan encourages the supply of single family dwellings through making land and mortgages available to builders on attractive terms. The lower interest rate on the first and second mortgages reduce the carrying cost of a home to a household.

### Ontario Housing Action Program

Under the Ontario Housing Action Program (O.H.A.P.) which commenced in 1973, the Ministry of Housing has played an active management and coordination role in all phases of the housing production process. The program is designed to stimulate the supply of housing for moderate income families in selected growth areas.

Interest free loans are available to regional municipalities for major sewer and water lines. For every house built under the program, the province pays the municipality an unconditional grant of up to \$600; this payment is designed to prevent an increased tax burden on existing homeowners. High ratio mortgage loans at reduced interest rates are available to builders who construct homes priced for families with incomes between \$8,000 and \$17,000. The program has a staff to coordinate the builders, municipalities and various provincial ministries involved in the process of housing construction and subdivision approval. In recent months changes have occurred in the program, and its actual use has been considerably reduced.

### Home Purchase Grants

For a limited time, Ontario and the federal government have been offering cash grants to households purchasing their first home. The federal grant of \$500 is available only for the purchase of a newly constructed home below a certain price level. This price level varies from area to area. The provincial government previously offered a \$1,500 grant applicable to both new and existing housing. This grant has now been terminated.

### Assisted Home Ownership

This program is the major initiative at the federal level designed to encourage the purchase of a home. Begun in 1973, it directly subsidizes the mortgage payments of families.

C.M.H.C. provides high ratio first mortgages, ranging from 80 percent on high priced units to 95 percent on lower priced units. A maximum price of an eligible home is established in each region. The loans were available for the purchase of either new or existing housing when the program was begun but are now only available for the purchase of new housing. Many of the mortgage loans are advanced to builders and subsequently assumed by the purchasers of the new houses. A supplement related to income, is provided to the eligible family. The interest rate is also adjusted. For a given house, the lower the family income, the greater the supplement; this, in effect, lowers the rate of interest being paid by the family.

Eligibility is limited to couples with or without children and with annual incomes of up to a stated maximum, the maximum depending on the region of the country.

A subsidy is also available to eligible families who secure a mortgage from a private lender. The mortgage loans are first advanced to builders and are assumed by the new owners at the time of purchase.

### Income tax subsidies

Other government programs which are not designed to primarily affect the housing sector, have a significant impact on the housing problem.

The Canadian income tax laws contain numerous provisions which give relatively favourable treatment to certain forms of income. Those households that own houses are able to enjoy many of these favourable provisions. A household which invests its savings in a house pays lower taxes than one which invests its savings in financial assets. In addition, income from the sale of a taxpayer's principal residence is exempt from capital gains taxation.

Under the Registered Home Owner Savings Plan a taxpayer who has no ownership interest in real property may establish a fund toward the purchase of a house. Contributions to this fund are deductible from taxable income to a maximum of \$1,000 per year and \$10,000 over the life of the taxpayer. When the fund is used to purchase a house the income is not subject to tax.

### Conclusion

In analyzing these programs, the Council has concluded that almost all the programs, although each has its own unique advantages and disadvantages, suffer from two basic problems: they offer assistance to a small fraction of those eligible which results in inequities; the benefits of many of the programs are not allocated on the basis of need. The tax regulations in particular are of greatest benefit to those with higher incomes. Homeowners are treated more and more favourably as their income rises.

To deal with these problems the Council has suggested a shelter allowance scheme to be considered as a mechanism for the provision of housing subsidies. A household would be provided with a coupon, reflecting the household's needs and income, for the purchase of accommodation in the private market. Families in similar circumstances would receive coupons of the same value. The value of the coupon would decline as income increased, ensuring that the family would still have an incentive to work. The coupon could be used to pay any expenses associated with obtaining accommodation. It could be used to pay rent, to pay the purchase price or carrying costs of a house, to pay housing repairs or, indeed, property taxes. The system would not distinguish between expenditures for rental or ownership. The persons or firms who were paid by the household with the coupons could redeem them for cash. The household could not redeem the coupon themselves.

Under such a system benefits would be enjoyed equally by households in similar circumstances. Benefits would be allocated on the basis of need. The transfers inherent in government housing policy would be made explicit. The beneficiaries would retain freedom of choice in housing and freedom of movement.

Since the shelter allowance scheme is, in effect, an income support scheme, the Council feels it should be considered in the context of the entire social security system. □

# A study of The Statutory Powers Procedure Act, 1971



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The Statutory Powers Procedure Act (S.O. 1971, Chapter 47) came into force on April 17, 1972. It sets out the minimum procedural requirements for administrative tribunals of all kinds, and is modelled on the rules of natural justice. The Act is administered by the Ministry of the Attorney General. It is designed to protect the civil rights of the public, and as such, should be of interest and concern to lawyers, civil servants (such as property assessors), municipal officials and members of the public who deal with the many boards, commissions, licensing bodies, tribunals, directors, superintendents and public officials making decisions under an Act of the Province of Ontario. This

paper will present a breakdown of the sections of The Statutory Powers Procedure Act which pertain specifically to the assessor. Most of the analytical discussion of these sections is taken from *A Manual of Practice on Administrative Law and Procedure in Ontario*, written several years ago by David W. Mundell, Q.C., of the Attorney General's Office. Reference also is made to *The Assessment Act* and *The Municipal Act*.

The legislation for The S.P.P.A. is based largely on recommendations made in a series of reports on civil rights by a Royal Commissioner, the Honourable J. C. McRuer, in 1968. In the past, the vagueness and omission of procedural rules in the legislation creating various tribunals had caused confusion and uncertainty among the persons running these tribunals, as well as the participating public. As they arose, the courts of law were required to answer questions in relation to each tribunal (e.g. Is a hearing required? If a hearing is required, who are the parties that should receive notice of the hearing?). In general, the courts endeavoured to require tribunals to follow fair procedures insofar as practicable, without unduly hampering the effective administration of public business.

In 1972, the S.P.P.A. was legislated in order to provide one clearly defined set of procedural rules for administrative tribunals.

The importance of The S.P.P.A. to the operation of the Assessment Review Court is stated by Emil K. Pukacz, former Chairman, in the revised ARC members' guide:

"The main function of the A.R.C. is to provide every ratepayer in Ontario with fair treatment in the apportionment of the tax burden and a reasonable opportunity to be heard if he believed that there is an error or inequity in his assessment. The ordinary citizen should be able to appear and state his case in a single and straightforward way and not be burdened with a complicated and onerous procedure. . . The S.P.P.A. is the most important procedural guide for the A.R.C. Its procedural requirements must always be followed whenever applicable."



It is very conceivable that the county judge hearing appeals from the decision of the Assessment Review Court under Section 55 of The Assessment Act and also the Ontario Municipal Board under Section 63 of The Assessment Act should comply with the S.P.P.A.

The purpose of The S.P.P.A. is clearly outlined in Mundell's manual:

"The Act is divided into two parts.

Part I deals with 'Minimum Rules for Proceedings of Certain Tribunals'. Tribunals exercising statutory powers that are required to follow a fair procedure are designated: a code of minimum rules of fair procedure for them to follow is enacted and defines and controls their powers. The objectives of this Part are:

- (1) to overcome uncertainties as to when the procedural rules of natural justice apply and what they require;
- (2) to furnish guidance to tribunals as to the conduct of their proceedings;
- (3) to inform persons affected of their rights; and
- (4) to minimize delay and expense in determining procedural matters.

Part II is entitled 'The Statutory Powers Procedure Rules Committee'. This Part provides for the establishment of a committee with two functions,

- (1) to maintain under continuous review the practice and procedure for the exercise of a broad range of statutory powers; and
- (2) to act as a consultative body in the making of appropriate rules additional to the minimum rules for tribunals to which Part I applies, and in the making of rules for the exercise of statutory powers of certain classes of tribunals to which Part I does not apply.

The objectives of this Part are,

- (1) to provide assistance to tribunals concerning procedure to be followed in the exercise of statutory powers;
- (2) to ensure that standards of fair procedures are met;
- (3) to ensure that additional rules supplementing the minimum rules for tribunals to which they apply meet proper standards; and
- (4) to ensure that appropriate rules are made for tribunals to which application of the minimum rules is not appropriate and that require rules specially adapted to their particular needs."

## Part I

### MINIMUM RULES FOR PROCEEDINGS OF CERTAIN TRIBUNALS

The first section of The S.P.P.A. which has specific relevance to the assessor is Section 4:

#### Disposition of proceedings without a hearing

4. *"Notwithstanding anything in this Act and unless otherwise provided in the Act under which the proceedings arise, or the tribunal otherwise directs, any proceedings may be disposed of by,*
  - (a) agreement,*
  - (b) consent order, or*
  - (c) a decision of the tribunal given,*
    - ( i) without a hearing, or*

- (ii) without a compliance with any other requirement of this Act, where the parties have waived such hearing or compliance."*

Mundell says:

"The effect of clauses a and b of section 4 is to make it clear that even though a statute requires a hearing by a tribunal, the parties may agree to the disposition of any matter before the tribunal by agreement or by consent order without a hearing unless disposition in this way is prohibited under the Act under which the proceedings arise, or the tribunal otherwise directs.

Where some public interest or other interest beyond those of parties is concerned in the proceedings, the tribunal should not accept the agreement or give effect to the consent order without a hearing unless it is satisfied that this public or other interest is protected.

Under clause c of section 4, the holding of a hearing or compliance with any of the requirements of the Minimum Rules may be waived by the parties subject to the same restrictions. With the consent of the parties if no other interest is involved, the tribunal may proceed as informally as it considers advisable with a view to expediting the decision or reducing expense and delays.

A tribunal should take care that any agreement or consent by the parties or waiver of their rights is recorded in the proceedings."

#### Parties

5. *"The parties to any proceedings shall be the persons specified as parties by or under the statute under which the proceedings arise, or, if not so specified, persons entitled by law to be parties to the proceedings."*

Mundell's comments are:

"It is essential in the interests of justice that all persons who may be effected or aggrieved by the decision of a tribunal have an opportunity to take part in the hearing in order to ensure that they may present their cases in protection of their interests. Exclusion of a proper party may invalidate the proceedings. Establishment of the identity of the parties to the proceedings is also important where an appeal from the decision has been provided or where an application for judicial review of the proceedings may be brought. A tribunal should adopt the practice of establishing on the record who are the parties in every proceeding before commencing a hearing.

The general principle is that any person who will be directly affected by the decision of the tribunal is entitled to be a party and should be recognized as such by the tribunal. Where a person who is entitled to be a party is not served but applies to be added as a party at the commencement of the hearing or later, if it appears to the tribunal that he has not had sufficient actual notice of the hearing to make adequate preparation to present his case, the tribunal should adjourn the hearing to permit him to make proper preparation."

Parties to the proceedings under section 52 of The Assessment Act and section 636(a) of The Municipal Act are outlined under notice of hearing, section 6 of The S.P.P.A.

NOTICE OF HEARING

6. (1) *"The parties to any proceedings shall be given reasonable notice of the hearing by the tribunal."*
- (2) *A notice of a hearing shall include,*
- (a) a statement of the time, place and purpose of the hearing;*
  - (b) a reference to the statutory authority under which the hearing will be held; and*
  - (c) a statement that if the party notified does not attend at the hearing, the tribunal may pro-*

*ceed in his absence and he will not be entitled to any further notice in the proceedings."*

On Section 6, Mundell says:

"This section imposes a mandatory requirement that notice be given to the 'parties'. Failure to comply with the provision may invalidate the proceedings. As already indicated it is therefore essential that the parties be identified at the outset of the proceedings."

Contents and Form of notice of hearing

Section 6(2) of the Act:

(Name of the Act under which procedures arise)

(Name of tribunal)

In the Matter of

(Describe proceedings sufficiently to identify them)

TO:

NOTICE OF HEARING

Take notice that a hearing before the

will be held at in the (name of tribunal)  
of  
commencing on the day of A.D. 19  
at o'clock in the noon to (describe purpose of hearing).

And further take notice that if you do not attend at this hearing the (name of tribunal) may proceed in your absence and you will not be entitled to any further notice in the proceedings.

Dated the day of 19

.....  
(Tribunal)



## PROVISIONS FOR NOTICE OF HEARING IN THE ASSESSMENT ACT AND THE MUNICIPAL ACT

### Section 52(4)

"The regional registrar shall give to the assessment commissioner and the clerk of the municipality and to all persons complaining and all persons whose assessment is complained of notice of any hearing by the Assessment Review Court at least fourteen days before the date fixed for the hearing in the following form:

Take notice that the Assessment Review will sit at..... on the.....  
day of ..... in the matter of a complaint.  
The complaint has been made by..... and states that  
.....

(Signed)

Regional Registrar.

### Section 52(6):

"The regional registrar of the Assessment Review Court shall cause any notice under this section to be left at the person's residence or place of business or to be sent by mail addressed thereto."

### Section 636(a)(1)(4):

"Notice of any hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council."

### Section 636(a)(10):

"Notice of any hearing by the Assessment Review Court under this section shall be given by mail by the regional registrar of the Assessment Review Court to the clerk of the municipality and to the applicant not less than fourteen days before the date upon which the application is to be dealt with by A.R.C."

The form under Section 52(4) of The Assessment Act differs from the form outlined in The S.P.P.A. in that it does not state that "if the party notified does not attend at the hearing, the tribunal may proceed in his absence and he will not be entitled to any further notice in the proceedings." However, the notice of hearing printed and used by the Assessment Review Court does include these provisions.

### Effect of non-attendance at hearing after due notice

7. "Where notice of a hearing has been given to a party to any proceedings in accordance with this Act and the party does not attend at the hearing, the tribunal may

*proceed in his absence and he is not entitled to any further notice in the proceedings."*

Mundell comments:

"Before proceedings with a hearing in the absence of a party, the tribunal should be satisfied that notice of the hearing containing a warning to this effect had been duly given to him and record such fact in the record."

### PROVISIONS IN THE ASSESSMENT ACT WHEN TO PROCEED *EX PARTE*

#### Section 52(11):

"If any party fails to appear, either in person or by an agent, the court may proceed *ex parte*."

The S.P.P.A. and The Assessment Act state that the court "may proceed". It would, therefore, be according to the member's judgement whether to proceed or not. When proper notice of hearing has been given as outlined under Section 6 of The S.P.P.A. and the complainant or agent fails to appear, the A.R.C. may proceed *ex parte* under the following conditions:

- (1) On request of the assessment commissioner or his/her representative in respect to a recommendation and/or approval of written minutes of settlement. The Member will hear the recommendation(s), and/or process the written minutes of settlement, and a notice of decision will be mailed in the usual manner, or
- (2) If the complainant has provided a written submission with sufficient information supporting his/her complaint to permit the Court to consider the issue on its merits. This documentary material is admissible as evidence under Section 15(1)(b) of The S.P.P.A. The presiding member may institute an *ex parte* hearing and request other parties to give evidence and then make a decision. A notice of decision will be mailed in the usual manner. In instances where the presiding member believes that no valid reason exists for either an adjournment or an *ex parte* hearing, the complaint will be deemed abandoned for reasons of non-appearance and will not be entitled to any further notice in the proceedings.

## Hearings to be public, exceptions

9. (1) *"A hearing shall be open to the public except where the tribunal is of the opinion that,*
- (a) matters involving public security may be disclosed; or*
  - (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,*
- in which case the tribunal may hold the hearing concerning any such matters in camera."*

## Rights of parties to counsel, to examine witnesses, etc., at hearings

10. *"A party to proceedings may at a hearing,*
- (a) be represented by counsel or an agent;*
  - (b) call and examine witnesses and present his arguments and submissions;*
  - (c) conduct cross-examinations or witnesses at a hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence."*

Mundell's comments are:

"Cross-examination is limited by the requirement that it should be reasonably required for a full and fair disclosure of the facts in relation to which the witness has given evidence. A tribunal should not permit fishing expeditions concerning matters not relevant to the subject matter of the hearing.

The right to cross-examine is limited to the right to ask questions of a witness. The purpose is to elicit further information relevant to the issues in the proceedings or to test reliability of the evidence a witness has given, including the credibility of the witness himself. A person conducting a cross-examination may not give evidence by making statements of fact or present argument. If the person conducting the cross-examination wishes to make statements of fact he should present himself as a witness to give evidence as to the facts so that he may be cross-examined on his evidence. Arguments should be presented after all the evidence has been taken.

It is a practice in the courts where there are large numbers of parties in the same interest to indicate at the outset that only one cross-examination of witnesses on their behalf will be permitted. The parties should agree amongst themselves who should conduct such cross-examination. If it develops that there is a difference in interests amongst the parties, additional cross-examination on behalf of the new interests that have emerged is permitted. The power of the tribunal to control its own proceedings applies to restrict needless and repetitive cross-examination while at the same time affording an opportunity for proper cross-examination.

The Act contains no provision prescribing the order of proceeding at the hearing. It is therefore within the

power of the tribunal to determine the order in the case of each hearing. The tribunal may properly adopt a standard practice but should be prepared in any particular case to consider a departure from such standard practice.

Although the Act contemplates informal hearings with a view to saving time and expense, the tribunal should not permit informality to develop into disorderliness. It should endeavour to follow an orderly mode of proceedings that will permit each party to develop his case in an organized manner."

## ORDER OF PROCEDURE AS OUTLINED IN THE ASSESSMENT ACT:

### Section 52(7):

"Where value is a ground of a complaint that is proceeded with, at the commencement of the hearing of the complaint by the court, the assessor shall explain the manner in which the assessment has been arrived at and the complainant shall explain the nature of his complaint."

## Rights of witnesses to counsel

11. (1) *"A witness at a hearing is entitled to be advised by his counsel or agent as to his rights but such counsel or agent may take no other part in the hearing without leave of the tribunal."*
- (2) *"Where a hearing is in camera, a counsel or agent for a witness is not entitled to be present except when that witness is giving evidence."*

## Summonses

12. (1) *"A tribunal may require any person, including a party, by summons,*
- (a) to give evidence on oath or affirmation at a hearing; and*
  - (b) to produce in evidence at a hearing documents and things specified by the tribunal,*
- relevant to the subject matter of the proceedings and admissible at a hearing."*

In the case of First Phase Civic Square Limited and the Regional Assessment Commissioner, Region Number 19 and the Corporation of the City of Hamilton, 1973, an unreported assessment case, the A.R.C. members issued a summons to the vice-president of the complainant company. During the hearing, over 90 exhibits were presented to the A.R.C. A large percentage of these exhibits were presented after the issuance of the summons.

At certain times, this hearing also was held in camera (section 9 of The S.P.P.A.), due to the fact that confidential financial matters were presented as evidence and exhibits.

There is no absolute right to an issue of a summons. Parties may request that the tribunal issue a summons, but the tribunal must satisfy itself before doing so that the required witness will provide evidence relevant to the hearing and that such evidence will be admissible. The tribunal, therefore, should not provide blank witness summons forms for the use of any of the parties appearing before it.



## Protection for witnesses

14. (1) *"A witness at a hearing shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to incriminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence."*

## Right to object under R.S.C. 1952, c. 307

- (2) *"A witness shall be informed by the tribunal of his right to object to answer any question under section 5 of the Canada Evidence Act."*

### Mundell comments:

"The witness is entitled to have counsel to advise him at a hearing, e.g. as to whether any evidence is privileged or whether he should claim protection for answers to questions that may incriminate him. Under section 14(1), the witness is afforded automatic protection from the use of his answers in civil proceedings or in proceedings concerning offences under provincial legislation but as the authorities now stand he has no protection from use of his answers given in subsequent criminal proceedings unless he claims protection under section 5 of The Canada Evidence Act. He is entitled to seek advice of his counsel on such matters."

## EVIDENCE

### What is admissible in evidence at a hearing

15. (1) *"Subject to subsections 2 and 3, a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,*
- (a) any oral testimony; and*
- (b) any document or other thing,*
- relevant to the subject matter of the proceedings and may act on such evidence, but the tribunal may exclude anything unduly repetitious."*

### What is inadmissible in evidence at a hearing

- (2) *"Nothing is admissible in evidence at a hearing,*
- (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or*
- (b) that is inadmissible by the statute under which the proceedings arise or any other statute."*

## Conflicts

- (3) *"Nothing in subsection 1 overrides the provisions of any act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings."*

## Copies

- (4) *"Where a tribunal is satisfied as to their authenticity, a copy of a document or other thing may be admitted as evidence at a hearing."*

## Photocopies

- (5) *"Where a document has been filed in evidence at a hearing the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal."*

## Certified copy admissible in evidence

- (6) *"A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a true copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document."*

Professor Atkey, in his article, "The Statutory Powers Procedure Act, 1971", analyzes Section 15 in very practical terms:

"Section 15...recognizes that tribunals must take a more open approach towards the scope of evidence that can be admitted at a hearing, and that the rules of evidence as applied in the courts are perhaps too restrictive for the administrative process. The section takes a "wide open" approach by providing that "any oral testimony or document or other thing" is admissible whether under oath or admissible in a court, subject only to four limitations:

- (a) it must be relevant to the subject matter of the proceedings;
- (b) it must not be unduly repetitious;
- (c) it cannot be inadmissible in a court by reason of any privilege under the law of evidence;
- (d) it cannot be inadmissible by the statute under which the proceedings arise or any other statute.

Therefore, providing the general intent of the section is not undermined by the specific limitations on evidence in other statutes, section 15 sanctions a general departure from the strict common law and statutory rules. This will permit tribunals to conduct their proceedings more informally and expeditiously since they will not be hampered by objections with respect to evidence such as those usually based on the exclusionary hearsay rules of evidence.

## THE ASSESSMENT ACT PROVIDES THAT COPY OF ROLL CAN BE EVIDENCE

### Section 54:

"A copy of any assessment roll, or portion of any assessment roll, written or printed, and certified to be a true copy by the clerk of the municipality, shall be received as prima facie evidence in any court without proof of the signature or the production of the original

assessment roll of which such certified copy purports to be a copy, or a part thereof. R.S.O. 1970, c. 32, s. 54."

## THE ASSESSMENT ACT PROVIDES THAT CERTAIN INFORMATION CANNOT BE DISCLOSED EXCEPT IN AN ASSESSMENT APPEAL

### Section 78(1):

"Every assessment commissioner or assessor or any person in the employ of a municipality who in the course of his duties acquires or has access to information in any way to the determination of the value of any real property or the amount of assessment thereof or to the determination of the amount of any business assessment, and who wilfully discloses or permits to be disclosed any such information not required to be entered on the assessment roll to any other person not likewise entitled in the course of his duties to acquire or have access to the information, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.00, or to imprisonment for a term of not more than six months, or to both."

### Section 78(2):

"This section does not prevent disclosure of such information by any person when being examined as a witness in an assessment appeal or in an action or other proceeding in a court or in an arbitration."

The following is outlined in the A.R.C. member's guide.

"Section 15(1) says that the A.R.C. may admit as evidence oral testimony or documents whether or not given under oath or admissible in a court. This means that the A.R.C. can admit hearsay or opinion evidence. Hearsay evidence is the relation to the A.R.C. by a witness of a third party's statements offered as proof of the facts contained in those statements. For example, Mr. Smith told me his house was assessed at \$10,000. offered as proof of the fact that Mr. Smith's house was assessed at \$10,000 is hearsay evidence. Hearsay is generally not admissible as evidence in a court of law, but section 15(1) removes this restriction for administrative tribunals.

Opinion evidence is something that requires a conclusion. For example, 'My neighbour's house is worth the same as mine' is an opinion. An opinion is only admissible in a court of law when it is given by an expert in his field of expertise. Section 15(1) also removes this restriction.

Notice that the subsection says such evidence 'relevant to the subject matter of the proceedings' is admissible. This gives the member power to exclude irrelevant material."

## Decision

17. "A tribunal shall give its final decision and order, if any, in any proceedings in writing and shall give reasons in writing therefore if requested by a party."

## PROVISIONS FOR WRITTEN REASONS FOR DECISION IN THE ASSESSMENT ACT

### Section 52(9):

"Where the court is requested during the hearing by a party to the proceedings to deliver reasons for its decision, the A.R.C. shall give written reasons for its decision."

### Notice of decision

18. "A tribunal shall send by first class mail addressed to the parties to any proceedings who took part in the hearing, at their addresses last known to the tribunal, a copy of its final decision and order, if any, in the proceedings, together with the reasons therefor, where reasons have been given, and each party shall be deemed to have received a copy of the decision or order on the fifth day after the day of mailing unless the party did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the copy of the decision or order until a later date."

### Mundell states:

"The time for bringing an appeal may be fixed in the statute providing for the appeal or may be fixed in the rules of court. An important provision that may govern the commencement of the period during which an appeal may be brought is contained in section 18 of the Act.

Where a party brings himself within the exception as not having received the copy of the decision or order until a later date, the actual date of receipt would appear to govern."

## PROVISIONS FOR NOTICE OF DECISION IN THE ASSESSMENT ACT AND THE MUNICIPAL ACT

### Section 52(14):

"When the Assessment Review Court has heard and decided a complaint, the regional registrar shall forthwith after the receipt of the record of the decision from the clerk of the court cause notice thereof to be given,

- (a) where the complaint was as to the amount of the assessment, by registered mail; and
- (b) in the case of all other complaints, by ordinary mail;

to the persons to whom notice of the hearing of such complaint was given. . ."

### Section 636(a)(7), (12), (19):

- (7) "...the clerk of the municipality shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given."

- (12) "Notice of the decision of the Assessment Review Court shall be given by the regional registrar of the Assessment Review Court by mail to the persons to whom notice of the hearing of such application was given. . ."



(19) "A copy of each notice of decision referred to in subsections 7 and 12 shall be sent by mail to the assessment commissioner by the clerk of the municipality or the regional registrar of the Assessment Review Court, as the case may be, at the same time as the notice of decision is given under subsections 7 and 12, provided that failure to send such copy to the assessment commissioner shall not invalidate any proceedings taken under this section. 1973, c. 175, s. 9(9)."

It will be recalled from Section 7 of The S.P.P.A. that where it is established that proper notice of hearing was given according to section 6 of The S.P.P.A., then the complainant who failed to appear is not entitled to a notice of decision.

With respect to the manner of mailing Notice of Decision, The S.P.P.A. states that "A tribunal shall send by first class mail" and section 52(14)(a) of The Assessment Act states that "where the complaint was as to the amount of the assessment, by registered mail." The Assessment Act calls for more than what is indicated in The S.P.P.A. The Assessment Act in this case should be followed because of the protective service provided by registered mail.

It is interesting to note the difference in the periods of time during which a decision may be appealed under the two different Acts. In The Assessment Act, a decision may be appealed within twenty-one days of the mailing of the notice, while in The Municipal Act the limit is fourteen days.

## Adjournments

21. "A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held."

On this section, Mundell states:

"A party applying for an adjournment is under the burden of establishing to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held.

Although this provision only gives a power to the tribunal to adjourn proceedings, it should not refuse an adjournment and insist that the hearing go on, where a party will be prejudiced. On the other hand, grounds for an adjournment should be substantial and an adjournment should not be allowed to be used as a device for causing delay. The governing consideration of fairness that underlies the procedural rules of natural justice should be given effect to by the tribunal in exercising its power."

## PROVISIONS FOR ADJOURNMENTS IN THE ASSESSMENT ACT

Section 52(10):

"Where at any time during the hearing by the court it appears that any other person should be a party to the hearing, the A.R.C. shall adjourn in order to give such person notice of the hearing."

## Part II

### STATUTORY POWERS PROCEDURE RULES COMMITTEE

What effect do the S.P.P.A. minimum rules for procedure have on rules under other statutes?

32. "Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply notwithstanding anything in this Act, the provisions of this Act and of rules made under section 33 prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith."

Mundell answers the question in his analysis of this section:

### EFFECT OF MINIMUM RULES ON RULES UNDER OTHER STATUTES

"The effect of this provision (section 32) is that as a general rule the Minimum Rules over-ride conflicting procedural rules for a tribunal enacted in or made under any other statute, (even the statute establishing the tribunal) unless it is 'expressly provided' in such other Act that the rules made by or under it apply 'notwithstanding anything in this Act', i.e. The Statutory Powers Procedure Act, 1971. In the absence of such a provision if there is any conflict between the rules made by or under such other Act and the Minimum Rules, effect should be given to the Minimum Rules to the extent of the conflict. Where there is no conflict the procedural rules in or under any such other Act continue to operate together with the Minimum Rules to supplement or add to them.

Where another statute expressly excludes or modifies the Minimum Rules in whole or in part 'notwithstanding anything in The Statutory Powers Procedure Act, 1971', the provisions of such other Act govern to the extent that the Minimum Rules are so excluded or modified."

The following statement is outlined in the A.R.C. members' guide:

"In the event of a conflict between The S.P.P.A. and another statute, The S.P.P.A. prevails, unless the other statute specifies otherwise: section 32 of The S.P.P.A."

## Conclusion

Undeniably, The S.P.P.A. is a crucial piece of legislation for Ontario's many administrative tribunals — perhaps the most important one to come along in recent years. Its relevance to the assessor's work is obvious. It is hoped that this article will be of assistance in achieving an understanding of the sections of the Act particularly pertinent to the assessor. A more detailed analysis of the Act is in the Fourth Technical Bulletin published by the Institute of Municipal Assessors in 1976 and distributed in February 1977. It is designed to serve as a reference guide should questions about The Act arise in the future. The S.P.P.A. is a giant step forward for the administrative tribunals of this province — and for the people affected by those tribunals. □

# Regulation made under The Assessment Review Court Act, 1972

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This Regulation is presented as a follow-up to Mr. Michor's article. The Regulation was approved by Her Honour The Lieutenant Governor on December 1, 1976. [Ed.]

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## REGULATION MADE UNDER THE ASSESSMENT REVIEW COURT ACT, 1972

### Procedure

1. The parties to a hearing of a complaint under *The Assessment Act* include,

- (a) the person complaining, referred to in subsection 1 or 2 of section 52 of *The Assessment Act*, or the person appealing the assessment under section 44 of *The Assessment Act*;
- (b) the assessment commissioner;
- (c) the board of the locality or the municipality, as the case may be;
- (d) all persons whose assessment is complained of, referred to in subsection 4 of section 52 of *The Assessment Act*; and
- (e) the persons added as parties pursuant to subsection 10 of section 52 of *The Assessment Act*.

2. The Court may, by written notice given to the parties at least fourteen days before the day for appearance, require the parties to a hearing of a complaint or appeal under *The Assessment Act* to appear before the Court for the purpose of fixing a day for hearing the complaint or appeal.

3. (1) Where a notice of hearing under *The Assessment Act* has been given to a complainant or appellant and he,

(a) fails to appear at the hearing; and

(b) has not made a written submission to the Court,

and there is not sufficient evidence to enable the Court to consider the matter on the merits, the Court may consider the appeal or complaint, as the case may be, abandoned.

(2) Where an appeal or complaint has been considered to be abandoned under subsection 1 and where the chairman or vice-chairman of the Court is satisfied that the failure of a party to attend or to make written submissions to the Court is due to circumstances beyond the control of the party, the chairman or vice-chairman may fix a new day for the hearing.

4. The parties to a hearing before the Court under *The Assessment Act* shall identify all properties that are under consideration and such identification shall include the roll numbers, the names of the assessed owners and the municipal descriptions of the properties.

5. The assessor's explanation required by subsection 7 of section 52 of *The Assessment Act* shall include the information required by section 4, the amount of the assessment and the manner in which the assessment was made.

6. The complainant, in the explanation required by subsection 7 of section 52 of *The Assessment Act*, shall state whether it is claimed that the assessment is too high or too low and whether the complaint is as to the complainant or any other person.

7. Where notice of hearing is not given under subsection 4 of section 52 of *The Assessment Act* and the chairman or a vice-chairman of the Court is satisfied, upon application by the complainant, that notice of the complaint was mailed within the time fixed by subsection 3 of section 52 of *The Assessment Act*, the chairman or vice-chairman, as the case may be, may fix a day for the parties to appear to fix the day for hearing the complaint or appeal or may fix the day for hearing the complaint or appeal. □



# COURTS- AN ASSESSOR'S VIEWPOINT

DAVID A. ROSIER,  
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The views expressed in this article are solely those of the author and are based on his long years of experience in the field. They in no way reflect or represent the views of the Ministry. [Ed.]

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I have read a number of dissertations on the subject of how an assessor should prepare for, behave and conduct himself in court. They have all had something constructive and useful to offer from the view of a court member, a judge, a lawyer or an appraiser, all of whom, while eminently qualified to offer advice, do not see an appeal as the assessor sees it.

Prior to the commencement of a hearing, at any level, the assessor has to be objective. He makes his valuation from an objective standpoint, discusses the appeal with the ratepayer, or his agent objectively, and decides whether his valuation is right or wrong. If he feels that his valuation is right, then he must, of necessity, become subjective about it. His opinion is correct and he must defend it. An assessor should never go into court with a valuation in which he has no confidence.

Once the stage has been set, the assessor must use the facts, his experience, his knowledge and his wits to have his opinion confirmed by the court. At this point he has only one objective. To win!

The first thing to keep in mind is that all court levels are different. The ARC is relatively informal, though I have appeared before some members who acted as though they were Supreme Court Judges. At this level, a lawyer is usually unnecessary except in major appeals. County Judge hearings are more formal depending on the individual judge although most usually allow the appellant, who appears without a lawyer, a fair amount of latitude. The OMB is formal and lawyers are a must for both sides.

In order to cover all bases I will lay out the various situations and cover them individually.

## ARC — No Lawyers

This situation is the most common. The appellant feels his assessment or his taxes are too high. You discuss the valuation with him and he is still not satisfied. The first thing to do is gauge the merit of the member. I categorize them as follows:

### The ideal

A member who is reasonably familiar with the real estate market. He is firm in accepting only facts and educated

opinions as evidence. He is not swayed by half-truths, insinuations, unsubstantiated facts or uneducated opinions. He is not influenced by emotion and usually gives a decision on the spot and with logical reasons.

Just give him or her the facts and your argument and let the chips fall where they may. You'll get a fair decision most of the time.

### The Supreme Court Judge (At least who thinks he is)

He is overbearing, overly formal and self-opinionated. Be careful, you may have to butter him up in order to win some cases. You might also get some weird decisions, especially on large assessments, because he feels he must justify his position.

### The ten-percenter

He wants to keep everybody happy so he's liable to give ten percent off if the appellant just shows up. When faced with a 'toughie' he may ask you for a recommendation. If he does, don't give it, let him make the decision.

### The rookie

He is unsure of himself but wants to do the right thing. Give him all the help you can, he might turn into an Ideal.

### The weakling

He lets everyone else run the show, the clerk, the appellant or the assessor. He will also have a tendency to reserve those appeals he intends to confirm. Take charge or you'll lose too many cases.

### The average

A member with many of The Ideal's virtues but also a few weaknesses. Read him, react accordingly and you'll win most of the time.

In general, never antagonize a member, show him you're good and that you know your stuff. Treat him courteously even if he pulls the occasional boner. After all, he's only human.

Next come the ratepayers. They come in all shapes and sizes but also must be categorized.

### The tax appellant

He's not appealing his assessment, he just thinks his taxes are too high. Most members will quickly squelch him on that kind of an argument so you won't even have to breathe heavily.

### The Sob Story Artist

This may be a little old lady, a pensioner on a fixed income, a disabled person, somebody who can't speak English or somebody who got shafted when they bought their house. Be sympathetic but don't give anything away. You may have to do a little talking to a Ten-percenter, a Weakling or a Rookie to avoid losing something.

### The Liar

Despite the oath swearing, some people still fabricate the most amazing stories. Stay with the facts and try to nail them under cross-examination. Most fabrications can be broken, but be careful not to lose your temper, be content to make them trip on their own stories.

### The Confuser

The appellant who gave you five comparables when you visited him and comes up with a completely different set in court. Give the member the facts, but odds are you'll have to check out the new ones anyway. He's a pain in the neck but if your assessment's good you'll be O.K. in the end.

### The Average Appellant

He has some facts, some uneducated or distorted opinions. He makes innuendos that the neighbours are all paying less taxes, but has nothing concrete. Get down to specific comparisons and you'll beat 'em most of the time.

### The Pro

The seasoned appellant who's been through it before and has a pretty good idea of how to get a few bucks off. He knows that valuation is not a specific science. Lay the facts on the line, use all the convincing arguments you can think of and hope for a good decision.

Be polite to all appellants even if they try to, or give you a bad time. You're going to be a winner 90% of the time anyway.

### COUNTY JUDGE — No Lawyers

Judges are a different breed of cat from ARC members. They are complete pros and must be treated as such. They will generally give the appellant some latitude in listening to his presentation. But don't expect the same consideration. As an assessor you're a pro too.

Even though some of them need to have valuation techniques explained, their knowledge of the law, case law, and their sense of logic is generally excellent.



You must, therefore, be very sure of your facts and avoid the type of doubletalk which might work on an ARC member. Present your case and let the other guy make the mistakes.

## COUNTY JUDGE & OMB – With lawyers and expert witnesses

Once lawyers are involved in an appeal, you, the assessor, are no longer in control. It's unfortunate in many instances, but also unavoidable. If the other side has counsel you're going to need help from a legal angle even though you may feel that you have the case wrapped up.

While legal expertise is essential, issues tend to become more complicated when lawyers are involved.

The biggest disadvantage is that you have to work in your evidence through a third party and in cross-examining the opposition any questions have to be asked by your counsel. This means that you have to educate your lawyer to ask the right questions in such a way as to get the answers you want. Obviously the familiarity of your lawyer with assessment and valuation techniques is going to dictate both how the case should be handled and the subsequent results.

A good assessment lawyer, however, is a decided asset. He can save you from any legal faux pas and object to loaded questions that are asked of you under cross-examination. He should be able to cast doubts on the credibility of even the best expert witnesses and rip a weak witness to shreds. In summarizing he will make the Judge aware of all pertinent case law that is in your favour.

Remember now the opposition are the bad guys, they want you to look bad, your evidence to look weak, your facts and opinions to appear in doubt. It doesn't matter if you're right, if doubts can be raised as to the credibility of your evidence you are in trouble. At this stage it is not a question of which side is right or wrong but which side can present the best evidence and arguments. Like the man said "Don't confuse me with facts".

On the witness stand be confident and poised, act like an expert. When being examined by your lawyer, make it easy for him, you know the answers you want to give, so speak, don't force him to drag the answers out of you. If he asks a question that could be ambiguous, have him repeat the question so that its meaning and the subsequent answer are clear. Under cross-examination be as unhelpful as possible within the limits of propriety. Expound on answers to questions that are beneficial to your cause and keep answers short that may expose a weak point in your case. Avoid

being backed into a corner by trying to foresee where the line of questioning is leading. When in doubt as to the meaning of a question have it repeated until you're sure of just what is being asked. Never give smart or sarcastic answers, be polite at all times but don't let a lawyer ride roughshod over you. Remember the opposition is trying to make brownie points and you're there to make sure it doesn't.

## PREPARATION

No article of this sort would be complete without some comments on preparation. There is nothing more embarrassing, or damaging to a case, than to discover an error or errors in court, that should have been caught beforehand. Check all appraisal records for accuracy and clarity, inspect the property and any comparables that the appellant has asked you to check. Make sure that your own comparables are really comparable and that you have all the necessary information to provide the court. I'm not big on photographs unless they are a concrete asset to the case. A picture of a mansion, for example, may be impressive enough to influence a court in your favour whereas a picture of a hovel in a slum district may do your case more harm than good.

On residential appeals, sales of comparable properties are your biggest asset, use them to the fullest. On commercial and multi-residential appeals, comparable sales in some areas will be few and far between and you will be placing the greatest reliance on an income approach. You must be prepared to back up your rents, multiplier or capitalization rate and your method of valuation. Be completely familiar with them and be prepared to argue against any figures or methods that the opposition might present. Avoid, like the plague, reference to cost manuals, depreciation schedules and the like. The name of the game is market value, not replacement cost value. On industrial and special purpose properties you will probably be forced into using replacement cost as your value indicator, but take heart, your opponents will probably not have anything better to offer.

## Conclusion

Courts are the assessors "moment of truth". They can provide the ecstasy of victory or the agony of defeat. Do not take them lightly, but enjoy them, they are the culmination of a heck of a lot of work. □

## What's New . . . in Case Law

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In place of our Case Study for this issue and consistent with our objective to improve information flow among all assessors, this is the first of a regular feature of *Aspects* aimed at keeping all assessors up-to-date on the latest court decisions.

The following is a listing of all recent court cases which have come to our attention. The cases are categorized alphabetically according to what section of the Act and, therefore, what topic they deal with.

Each commissioner has been sent the full text of each case. This new feature is primarily to inform you of the cases and to serve as a form of reference for you.

### THE ASSESSMENT ACT

#### Section 3(4) EXEMPTION

Keywords: University  
Used and Occupied By

*York University et al and The Corporation of the Borough of North York et al (H.C.J., Oct./76).*

#### Section 3(5) EXEMPTION

Keywords: Camp, Summer  
Seminary of Learning

*Baptist Convention of Ontario and Quebec and R.A.C. Region #17 (District Judge Oct./74).*

*The Eastern Canada Synod Lutheran Church in America and R.A.C., Region #22 (County Court, Oct./76).*

*Inter-Varsity Christian Fellowship of Canada and R.A.C., Reg. #17, (District Court, Aug./76).*

*Charles L. Nicholson and The Corp. of the Twp. of Muskoka Lakes (District Court Nov./76).*

*The Salvation Army and R.A.C., Reg. #17, (District Court, Sept./76).*

#### Section 3(12) EXEMPTION

Keywords: Charitable Institution  
Nursing Home

*Bethany Lodge and The Assessment Commissioner for York Assessment Region No. 14 et al (High Court of Justice, Feb./75).*

Keywords: Charitable Institution  
Used and Occupied By

*Re Markham York Hospital et al and Town of Markham (High Court of Justice, Feb./76) 12 O.R. (2d) 238.*

Keywords: Charitable Institution  
Similar/Vicinity

*The Young Men's Christian Association of Metropolitan Toronto and the Town of Richmond Hill (High Court of Justice, June/76).*

#### Section 7(1) BUSINESS ASSESSMENT

Keywords: Liability  
Used and Occupied by

*R.A.C. #7 and Kent Drugs Ltd. T/A Drug City (OMB Nov./76). M7611*

*York University et al and the Borough of North York et al (High Court of Justice, Oct./76).*

#### Section 7(10) BUSINESS ASSESSMENT

Keywords: Rooming House

*R.A.C., Reg. #11 et al and Environ Properties Ltd. (High Court of Justice, Divisional Court, Nov./76).*



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## What's New ... in Case Law

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### Section 17(3) APPORTIONMENT

Keywords: Fair Market Rent

R.A.C. #7 and *Kent Drugs Ltd. T/A Drug City* (O.M.B. Nov./76). M7611

### Section 27(2) MARKET VALUE

Keywords: Industrial Valuation

The Corp. of the Town of Bracebridge and *Corning Glass Works of Canada Ltd.* (O.M.B. April/76) M74192

The Town of Bracebridge and *Rockwell International of Canada Ltd.* (District Judge, Dec./74).

Keywords: Special Purpose Valuation  
Golf Course

*Derrydale Golf Course Ltd.* and R.A.C. Reg. #15 and The Corp. of The City of Mississauga (O.M.B. Dec./76).

Keywords: Commercial Valuation  
Mixed Use Properties

R.A.C., Reg. #29 and *Gendron et al* (O.M.B. July/76) M74128-36

Keywords: Highest and Best Use

The Town of Bracebridge and *Rockwell International of Canada Ltd.* (District Judge, Dec./74).

### Section 27(3) FARM VALUATION

Keywords: Tenanted Farm Lands

*Walter Rose* and R.A.C. #13, (County Judge, Nov./76).

Keywords: Intent to Farm  
Zoning

S. D. *Latner* and The Assessment Commissioner, Twp. of King. (County Judge, Nov./76).

### Section 46(1) ASSESSMENT ROLL

Keywords: Prior Assessments

Kurt *Weissert* and R.A.C. Reg. #12 and Borough of Etobicoke (O.M.B. Oct./76) M7655.

### Section 55(2) APPEAL PROCEDURE

Keywords: Time Limit

Mrs. A. *LaPlume*, Originex Services Limited on Behalf of Newmarket Plaza Limited and R.A.C., Town of Newmarket (County Judge, Nov./76).

### Section 90 SIMILAR REAL PROPERTY

Keywords: Income Approach —  
Multi-Res.  
Limited Dividend Property

Al *Doren* Developments Limited and R.A.C., Reg. #15 and The Corp. of the City of Mississauga (O.M.B. Nov./76) M762.

Keywords: Multi-Res  
Valuation-Apartment

*Award Construction (Hamilton) Ltd.* and Escarpment Realty Co. Ltd. and R.A.C., Reg. #20 (County Judge, Dec./76).

### SIMILAR VICINITY

Keywords: Commercial Property  
Mixed Use

R.A.C., Reg. #29 and *Gendron et al* (O.M.B. July/76) M74128-76

Keywords: Industrial Properties

*Canadian General Electric Company Ltd.* and R.A.C., Reg. #15 and The Corp. of the Town of Oakville (O.M.B. May/76) R9712.

### MUNICIPAL ACT

#### Section 636(a)

Keywords: Refund of Taxes — Strike

The *Firestone Tire and Rubber Co. of Canada Ltd.* and the Corp. of the City of Hamilton, Reg. #19 (Supreme Court of Canada May/55) (1955) S.C.R. 604. □

## DISTRIBUTION

*Aspects* is published quarterly, in the fall, winter, summer and spring. It is distributed without charge to all assessors and students of assessment administration. Interested persons outside the Assessment Division may be placed on *Aspects'* mailing list on request.

## POLICY

Contributions and correspondence are welcome. Address all manuscripts and inquiries to the Advisory Committee member in your Area or directly to the Editor, Assessment Standards Branch, Assessment Division, Ministry of Revenue, Queens Park, Toronto, Ontario M7A 1X8.

*Aspects* reserves the right to make editorial changes in articles submitted. Unless otherwise arranged, manuscripts should be submitted in duplicate. Articles should not exceed twenty-five typewritten, double-spaced pages.

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